

**§ 16104. Disobedience to subpoenas**

Whoever does not obey a subpoena or requirement of the Board to appear and testify or produce records shall be fined under title 18 or imprisoned not more than 1 year, or both.

(Added Pub. L. 104-88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 11913 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

**§ 16105. General criminal penalty when specific penalty not provided**

When another criminal penalty is not provided under this chapter, a pipeline carrier providing transportation subject to this part, and when that carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed under this part, shall be fined under title 18 or imprisoned not more than 2 years, or both. A separate violation occurs each day a violation of this part continues.

(Added Pub. L. 104-88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 11914 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

**§ 16106. Punishment of corporation for violations committed by certain individuals**

An act or omission that would be a violation of this subtitle if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a pipeline carrier providing transportation or service subject to this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

(Added Pub. L. 104-88, title I, §106(a), Dec. 29, 1995, 109 Stat. 931.)

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 11915 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

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**AMENDMENTS**

1998—Pub. L. 105-178, title VII, §7202(b), June 9, 1998, 112 Stat. 471, added item for chapter 223.

1997—Pub. L. 105-134, title I, §106(a), Dec. 2, 1997, 111 Stat. 2573, struck out item for chapter 245 “Amtrak Commuter”.

1996—Pub. L. 104-287, §5(56)(B), Oct. 11, 1996, 110 Stat. 3394, added item for chapter 283.

1994—Pub. L. 103-440, title I, §103(b)(1), Nov. 2, 1994, 108 Stat. 4618, added part D and item for chapter 261, struck out former part D “MISCELLANEOUS” and former item for chapter 261 “Law Enforcement . . . 26101”, and added part E and item for chapter 281.

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## AMENDMENTS

2005—Pub. L. 109–59, title IX, §§9002(a)(2), 9005(b)(2), Aug. 10, 2005, 119 Stat. 1921, 1925, added items 20154 and 20155.

1995—Pub. L. 104–66, title I, §1121(g)(2), Dec. 21, 1995, 109 Stat. 724, struck out item 20116 “Biennial report”.

1994—Pub. L. 103–440, title II, §§206(b), 207(b), 210(b), 211(b), 212(b), 213(b), 214(b), 215(b), 219(b), title III, §§301(b), 302(b), Nov. 2, 1994, 108 Stat. 4621–4624, 4626, 4628, substituted “Biennial” for “Annual” in item 20116 and “cars” for “equipment” in item 20133 and added items 20145 to 20153.

## SUBCHAPTER I—GENERAL

## § 20101. Purpose

The purpose of this chapter is to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 863.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>                  |
|------------------------|---------------------------|--|
| 20101 .....            | 45:421.                   | Oct. 16, 1970, Pub. L. 91–458, §101, 84 Stat. 971. |

The words “The Congress declares that” are omitted as surplus. The words “accidents and incidents” are substituted for “accidents” for consistency with the source provisions restated in section 20105(b)(1)(B) of the revised title. The words “and to reduce deaths and injuries to persons and to reduce damage to property caused by accidents involving any carrier of hazardous materials” are omitted as obsolete because they applied to 49 App.:1761 and 1762, that were repealed by section 113(g) of the Hazardous Materials Transportation Act (Public Law 93–633, 88 Stat. 2163).

## SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–134, §1(a), Dec. 2, 1997, 111 Stat. 2570, provided that: “This Act [enacting section 28103 of this title, amending sections 24101, 24102, 24104, 24301 to 24307, 24309, 24312, 24315, 24701, 24706, 24902, and 24904 of this title, section 8G of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, Government Organization and Employees, and section 9101 of Title 31, Money and Finance, repealing sections 24310, 24314, 24501 to 24506, 24702 to 24705, 24707, 24708, and 24903 of this title, and section 1111 of Title 45, Railroads, and enacting provisions set out as notes under this section and sections 24101, 24104, 24301, 24304, 24305, 24307, 24312, 24315, 24501, and 24706 of this title, section 8G of the Appendix to Title 5, and section 172 of Title 26, Internal Revenue Code] may be cited as the ‘Amtrak Reform and Accountability Act of 1997’.”

## SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–440, title I, §101, Nov. 2, 1994, 108 Stat. 4615, provided that: “This title [enacting sections 26101

to 26105 of this title, renumbering former sections 26101 and 26102 of this title as 28101 and 28102 of this title, respectively, and enacting provisions set out as notes under section 26101 of this title and section 838 of Title 45, Railroads] may be cited as the ‘Swift Rail Development Act of 1994’.”

Pub. L. 103–440, title II, §201, Nov. 2, 1994, 108 Stat. 4619, provided that: “This title [enacting sections 20145 to 20151 and 21108 of this title, amending sections 103, 20103, 20111, 20116, 20117, 20133, 20142, and 21303 of this title, and enacting provisions set out as a note under section 11504 of this title] may be cited as the ‘Federal Railroad Safety Authorization Act of 1994’.”

## § 20102. Definitions

In this part—

(1) “railroad”—

(A) means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including—

(i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and

(ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but

(B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(2) “railroad carrier” means a person providing railroad transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 863.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20102(1) .....         | 45:16.                    | Apr. 14, 1910, ch. 160, §1, 36 Stat. 298; restated June 22, 1988, Pub. L. 100–342, §13(3)(E), 102 Stat. 632.   |
|                        | 45:22.                    | Feb. 17, 1911, ch. 103, §1, 36 Stat. 913; June 7, 1924, ch. 355, §1, 43 Stat. 659; restated June 22, 1988, Pub. L. 100–342, §14(1), 102 Stat. 632.   |
|                        | 45:38 (last sentence).    | May 6, 1910, ch. 208, 36 Stat. 350, §1 (last sentence); added June 22, 1988, Pub. L. 100–342, §15(1)(C), 102 Stat. 633.  |
|                        | 45:61(a).                 | Mar. 4, 1907, ch. 2939, §1(a), 34 Stat. 1415; Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; restated Nov. 2, 1978, Pub. L. 95–574, §5, 92 Stat. 2461; June 22, 1988, Pub. L. 100–342, §16(1)(A), 102 Stat. 634.                                 |
|                        | 45:61(b)(1).              | Mar. 4, 1907, ch. 2939, §1(b)(1), 34 Stat. 1415; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; June 22, 1988, Pub. L. 100–342, §16(1)(B), 102 Stat. 634.   |
|                        | 45:431(e).                | Oct. 16, 1970, Pub. L. 91–458, §202(e), 84 Stat. 971; restated June 22, 1988, Pub. L. 100–342, §7(a), 102 Stat. 628.   |
|                        | 49:App.:26(a).            | Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(a); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; Aug. 26, 1937, ch. 818, 50 Stat. 835; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; restated June 22, 1988, Pub. L. 100–342, §17(1), 102 Stat. 635. |

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 20102(2) .....         | (no source).              |                                   |

Clause (1) is substituted for the source provisions to avoid repeating the definition of “railroad” in each chapter in this part.

Clause (2) is added to distinguish between railroad transportation and the entity providing railroad transportation.

**§ 20103. General authority**

(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.

(b) REGULATIONS OF PRACTICE FOR PROCEEDINGS.—The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

(c) CONSIDERATION OF INFORMATION AND STANDARDS.—In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

(d) WAIVERS.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad safety. The Secretary shall make public the reasons for granting the waiver.

(e) HEARINGS.—The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this chapter, including a regulation or order establishing, amending, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided.

(f) TOURIST RAILROAD CARRIERS.—In prescribing regulations that pertain to railroad safety that affect tourist, historic, scenic, or excursion railroad carriers, the Secretary of Transportation shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on actions taken under this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 863; Pub. L. 103–440, title II, §217, Nov. 2, 1994, 108 Stat. 4624; Pub. L. 107–296, title XVII, §1710(b), Nov. 25, 2002, 116 Stat. 2319.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>         | <i>Source (Statutes at Large)</i>  |
|------------------------|-----------------------------------|--|
| 20103(a) .....         | 45:431(a) (1st sentence cl. (1)). | Oct. 16, 1970, Pub. L. 91–458, §202(a) (1st sentence cl. (1)), (b), (c), 84 Stat. 971. |

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>    | <i>Source (Statutes at Large)</i>   |
|------------------------|------------------------------|---|
| 20103(b) .....         | 45:431(d) (21st–last words). | Oct. 16, 1970, Pub. L. 91–458, §202(d), 84 Stat. 971; restated July 8, 1976, Pub. L. 94–348, §5(a), 90 Stat. 819. |
| 20103(c) .....         | 45:431(d) (1st–20th words).  |   |
| 20103(d) .....         | 45:431(c).                   |   |
| 20103(e) .....         | 45:431(b).                   |   |

In this part, the word “rule” is omitted as being synonymous with “regulation”. The word “standard” is omitted as being included in “regulation”.

In subsection (a), the words “(hereafter in this subchapter referred to as the ‘Secretary’)” in 45:431(a) (1st sentence cl. (1)) are omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In subsection (b), the words “within 180 days after July 8, 1976” are omitted as expired. The word “prescribe” is substituted for “take such action as may be necessary to develop and publish” for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (d), the words “after hearing in accordance with subsection (b) of this section” are omitted as surplus because of the language restated in subsection (e) of this section.

## AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296 inserted at end “When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.”

1994—Subsec. (f). Pub. L. 103–440 added subsec. (f).

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

## REGULATIONS

Section 4(t) of Pub. L. 103–272 provided that:

“(1) Not later than March 3, 1995, the Secretary of Transportation shall complete a regulatory proceeding to consider prescribing regulations to improve the safety and working conditions of locomotive cabs. The proceeding shall assess—

“(A) the adequacy of Locomotive Crashworthiness Requirements Standard S–580, or any successor standard, adopted by the Association of American Railroads in 1989 in improving the safety of locomotive cabs; and

“(B) the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect productivity, health, and the safe operation of locomotives.

“(2) SUPPORTING RESEARCH AND ANALYSIS.—In support of the proceeding required under paragraph (1) of this subsection, the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider—

“(A) the costs and benefits associated with equipping locomotives with—

“(i) braced collision posts;

“(ii) rollover protection devices;

“(iii) deflection plates;

“(iv) shatterproof windows;

“(v) readily accessible crash refuges;

“(vi) uniform sill heights;

“(vii) antilclimbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

“(viii) equipment to deter post-collision entry of flammable liquids into locomotive cabs;

“(ix) any other devices intended to provide crash protection for occupants of locomotive cabs; and

“(x) functioning and regularly maintained sanitary facilities; and

“(B) the effects on train crews of the presence of asbestos in locomotive components.

“(3) REPORT.—If, on the basis of the proceeding required under paragraph (1) of this subsection, the Secretary decides not to prescribe regulations, the Secretary shall report to Congress on the reasons for that decision.”

#### § 20104. Emergency authority

(a) ORDERING RESTRICTIONS AND PROHIBITIONS.—(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary of Transportation decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death or personal injury, the Secretary immediately may order restrictions and prohibitions, without regard to section 20103(e) of this title, that may be necessary to abate the situation.

(2) The order shall describe the condition or practice, or a combination of conditions and practices, that causes the emergency situation and prescribe standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary's discretion under this section to maintain the order in effect for as long as the emergency situation exists.

(b) REVIEW OF ORDERS.—After issuing an order under this section, the Secretary shall provide an opportunity for review of the order under section 554 of title 5. If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

(c) CIVIL ACTIONS TO COMPEL ISSUANCE OF ORDERS.—An employee of a railroad carrier engaged in interstate or foreign commerce who may be exposed to imminent physical injury during that employment because of the Secretary's failure, without any reasonable basis, to issue an order under subsection (a) of this section, or the employee's authorized representative, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action must be brought in the judicial district in which the emergency situation is alleged to exist, in which that employing carrier has its principal executive office, or for the District of Columbia. The Secretary's failure to issue an order under subsection (a) of this section may be reviewed only under section 706 of title 5.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 864.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 20104(a) .....         | 45:432(a), (d).           | Oct. 16, 1970, Pub. L. 91-458, §203, 84 Stat. 972; restated Oct. 10, 1980, Pub. L. 96-423, §3, 94 Stat. 1811. |
| 20104(b) .....         | 45:432(b), (c).           |   |
| 20104(c) .....         | 45:432(e).                |   |

In subsection (a)(1), the words “or both” are omitted as surplus. The words “immediately may order restrictions and prohibitions . . . that may be necessary to

abate the situation” are substituted for “may immediately issue an order . . . imposing such restrictions or prohibitions as may be necessary to bring about the abatement of such emergency situation” to eliminate unnecessary words.

In subsection (a)(2), the words “or a combination of conditions and practices” are added for consistency with paragraph (1). The words “(as determined by the Secretary)” are omitted as surplus. The last sentence is substituted for 45:432(d) (last sentence) for clarity.

In subsection (b), the words “the Secretary” are added for clarity.

In subsection (c), the words “issue an order” are substituted for “seek relief” for consistency in this section. The words “The action must be brought in the judicial district” are substituted for “for the judicial district” for consistency in the revised title.

#### § 20105. State participation

(a) INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—The Secretary concerned may prescribe investigative and surveillance activities necessary to enforce the safety regulations prescribed and orders issued by the Secretary<sup>1</sup> that apply to railroad equipment, facilities, rolling stock, and operations in a State. The State may participate in those activities when the safety practices for railroad equipment, facilities, rolling stock, and operations in the State are regulated by a State authority and the authority submits to the Secretary concerned an annual certification as provided in subsection (b) of this section.

(b) ANNUAL CERTIFICATION.—(1) A State authority's annual certification must include—

(A) a certification that the authority—

(i) has regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations in the State;

(ii) was given a copy of each safety regulation prescribed and order issued by the Secretary concerned, that applies to the equipment, facilities, rolling stock, or operations, as of the date of certification; and

(iii) is conducting the investigative and surveillance activities prescribed by the Secretary concerned under subsection (a) of this section; and

(B) a report, in the form the Secretary concerned prescribes by regulation, that includes—

(i) the name and address of each railroad carrier subject to the safety jurisdiction of the authority;

(ii) each accident or incident reported during the prior 12 months by a railroad carrier involving a fatality, personal injury requiring hospitalization, or property damage of more than \$750 (or a higher amount prescribed by the Secretary concerned), and a summary of the authority's investigation of the cause and circumstances surrounding the accident or incident;

(iii) the record maintenance, reporting, and inspection practices conducted by the authority to aid the Secretary concerned in enforcing railroad safety regulations prescribed and orders issued by the Secretary concerned, including the number of inspec-

<sup>1</sup> So in original. Probably should be “Secretary concerned”.

tions made of railroad equipment, facilities, rolling stock, and operations by the authority during the prior 12 months; and

(iv) other information the Secretary concerned requires.

(2) An annual certification applies to a safety regulation prescribed or order issued after the date of the certification only if the State authority submits an appropriate certification to provide the necessary investigative and surveillance activities.

(3) If, after receipt of an annual certification, the Secretary concerned decides the State authority is not complying satisfactorily with the investigative and surveillance activities prescribed under subsection (a) of this section, the Secretary concerned may reject any part of the certification or take other appropriate action to achieve adequate enforcement. The Secretary concerned must give the authority notice and an opportunity for a hearing before taking action under this paragraph. When the Secretary concerned gives notice, the burden of proof is on the authority to show that it is complying satisfactorily with the investigative and surveillance activities prescribed by the Secretary concerned.

(c) AGREEMENT WHEN CERTIFICATION NOT RECEIVED.—(1) If the Secretary concerned does not receive an annual certification under subsection (a) of this section related to any railroad equipment, facility, rolling stock, or operation, the Secretary concerned may make an agreement with a State authority for the authority to provide any part of the investigative and surveillance activities prescribed by the Secretary concerned as necessary to enforce the safety regulations and orders applicable to the equipment, facility, rolling stock, or operation.

(2) The Secretary concerned may terminate any part of an agreement made under this subsection on finding that the authority has not provided every part of the investigative and surveillance activities to which the agreement relates. The Secretary concerned must give the authority notice and an opportunity for a hearing before making such a finding. The finding and termination shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

(d) AGREEMENT FOR INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—In addition to providing for State participation under this section, the Secretary concerned may make an agreement with a State to provide investigative and surveillance activities related to the duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).

(e) PAYMENT.—On application by a State authority that has submitted a certification under subsections (a) and (b) of this section or made an agreement under subsection (c) or (d) of this section, the Secretary concerned shall pay not more than 50 percent of the cost of the personnel, equipment, and activities of the authority needed, during the next fiscal year, to carry out a safety program under the certification or agreement. However, the Secretary concerned may pay an authority only when the authority

assures the Secretary concerned that it will provide the remaining cost of the safety program and that the total State money expended for the safety program, excluding grants of the United States Government, will be at least as much as the average amount expended for the fiscal years that ended June 30, 1969, and June 30, 1970.

(f) MONITORING.—The Secretary concerned may monitor State investigative and surveillance practices and carry out other inspections and investigations necessary to help enforce this chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).

(g) DEFINITIONS.—In this section—

(1) the term “safety” includes security; and

(2) the term “Secretary concerned” means—

(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 864; Pub. L. 107–296, title XVII, §1710(a), Nov. 25, 2002, 116 Stat. 2319.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>  | <i>Source (Statutes at Large)</i>   |
|------------------------|--|---|
| 20105(a) .....         | 45:435(a) (1st sentence related to authority for State participation). | Oct. 16, 1970, Pub. L. 91–458, §206(a) (1st sentence), (b), (f), 84 Stat. 972, 973, 974; Nov. 16, 1990, Pub. L. 101–615, §28(a)(1)–(3), (b), (c), 104 Stat. 3276, 3277. |
| 20105(b) (1)(A).       | 45:435(a) (1st sentence related to contents of certification).         |   |
| 20105(b) (1)(B).       | 45:435(b) (1st sentence).  |   |
| 20105(b)(2) ..         | 45:435(f).   |   |
| 20105(b)(3) ..         | 45:435(b) (2d–last sentences).   |   |
| 20105(c) .....         | 45:435(c).   | Oct. 16, 1970, Pub. L. 91–458, §206(c), (e), 84 Stat. 973, 974.   |
| 20105(d) .....         | 45:435(g).   | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §206(g); added Oct. 10, 1980, Pub. L. 96–423, §4(a), 94 Stat. 1812.  |
| 20105(e) .....         | 45:435(d).   | Oct. 16, 1970, Pub. L. 91–458, §206(d), 84 Stat. 974; Oct. 10, 1980, Pub. L. 96–423, §4(b), 94 Stat. 1812.  |
| 20105(f) .....         | 45:435(e).   |   |

In subsection (a), the first sentence is added for clarity.

In subsection (b)(1)(A)(iii), the words “as necessary for the enforcement by him of each rule, regulation, order, and standard referred to in paragraph (2) of this subsection, as interpreted by the Secretary” are omitted as surplus.

In subsection (b)(1)(B)(i) and (ii), the words “railroad carrier” are substituted for “railroad” because of the definition of “railroad carrier” in section 20102 of the revised title.

In subsection (b)(1)(B)(iii), the words “a detail of” are omitted as surplus.

In subsection (b)(3), the text of 45:435(b) (2d sentence) and the words “as he deems”, “reasonable”, and “with respect to such safety rules, regulations, orders, and standards” are omitted as surplus.

In subsection (c)(1), the word “enforce” is substituted for “obtain compliance with” for clarity and consistency in this section.

In subsection (e), the words “out of funds appropriated pursuant to this subchapter or otherwise made available”, “reasonably”, and “satisfactory” are omitted as surplus. The words “will be at least as much as the average amount expended” are substituted for “will be maintained at a level which does not fall below the average level of such expenditures” for clarity and to eliminate unnecessary words.

#### AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296, § 1710(a)(2), substituted “the Secretary concerned” for “the Secretary” in second sentence.

Pub. L. 107–296, § 1710(a)(1), substituted “The Secretary concerned” for “The Secretary of Transportation” in first sentence.

Subsecs. (b), (c). Pub. L. 107–296, § 1710(a)(2), substituted “Secretary concerned” for “Secretary” wherever appearing.

Subsec. (d). Pub. L. 107–296, § 1710(a)(2), (3), substituted “Secretary concerned” for “Secretary” and “duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)” for “Secretary’s duties under chapters 203–213 of this title”.

Subsec. (e). Pub. L. 107–296, § 1710(a)(2), substituted “Secretary concerned” for “Secretary” wherever appearing.

Subsec. (f). Pub. L. 107–296, § 1710(a)(2), (4), substituted “Secretary concerned” for “Secretary” and “chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)” for “chapter”.

Subsec. (g). Pub. L. 107–296, § 1710(a)(5), added subsec. (g).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

### § 20106. National uniformity of regulation

Laws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable. A State may adopt or continue in force a law, regulation, or order related to railroad safety or security until the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety or security when the law, regulation, or order—

- (1) is necessary to eliminate or reduce an essentially local safety or security hazard;
- (2) is not incompatible with a law, regulation, or order of the United States Government; and
- (3) does not unreasonably burden interstate commerce.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 866; Pub. L. 107–296, title XVII, § 1710(c), Nov. 25, 2002, 116 Stat. 2319.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>                   |
|------------------------|---------------------------|---|
| 20106 .....            | 45:434.                   | Oct. 16, 1970, Pub. L. 91–458, § 205, 84 Stat. 972. |

In this section, before clause (1), the words “The Congress declares that” are omitted as unnecessary. In clause (3), the word “unreasonably” is substituted for “undue” for consistency in the revised title and with other titles of the United States Code.

#### AMENDMENTS

2002—Pub. L. 107–296, § 1710(c), in introductory provisions, in first sentence inserted “and laws, regulations, and orders related to railroad security” after “safety”, in second sentence substituted “Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters),” for “Transportation”, and in second and third sentences inserted “or security” after “order related to railroad safety”.

Par. (1). Pub. L. 107–296, § 1710(c)(2), inserted “or security” after “safety”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

### § 20107. Inspection and investigation

(a) GENERAL.—To carry out this part, the Secretary of Transportation may take actions the Secretary considers necessary, including—

- (1) conduct investigations, make reports, issue subpoenas, require the production of documents, take depositions, and prescribe record-keeping and reporting requirements; and
- (2) delegate to a public entity or qualified person the inspection, examination, and testing of railroad equipment, facilities, rolling stock, operations, and persons.

(b) ENTRY AND INSPECTION.—In carrying out this part, an officer, employee, or agent of the Secretary, at reasonable times and in a reasonable way, may enter and inspect railroad equipment, facilities, rolling stock, operations, and relevant records. When requested, the officer, employee, or agent shall display proper credentials. During an inspection, the officer, employee, or agent is an employee of the United States Government under chapter 171 of title 28.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 866.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>  | <i>Source (Statutes at Large)</i>   |
|------------------------|--|---|
| 20107(a) .....         | 45:437(a) (1st sentence words before 9th and after 14th commas).<br>45:437(d)(1) (1st sentence). | Oct. 16, 1970, Pub. L. 91–458, § 208(a) (1st sentence words before 9th and after 14th commas), 84 Stat. 974, 975.<br>Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 208(d)(1) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, § 6(b), 94 Stat. 1813. |
| 20107(b) .....         | 45:437(b).   | Oct. 16, 1970, Pub. L. 91–458, § 208(b), 84 Stat. 975; re-stated Nov. 2, 1978, Pub. L. 95–574, § 9, 92 Stat. 2462; Oct. 10, 1980, Pub. L. 96–423, § 6(a), 94 Stat. 1813.  |

In subsection (a), before clause (1), the words “To carry out this part, the Secretary of Transportation may” are substituted for “In carrying out his functions under this subchapter, the Secretary is authorized to perform . . . to carry out the provisions of this subchapter” and “In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix, the Secretary is authorized to perform any act authorized in subsection

(a) of this section . . . to carry out such transferred functions” to eliminate unnecessary words. In clause (2), the word “entity” is substituted for “bodies” for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words “In carrying out this part” are substituted for “To carry out the Secretary’s responsibilities under this subchapter and under the functions transferred by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix” to eliminate unnecessary words. The word “way” is substituted for “manner” for consistency in the revised title and with other titles of the Code. The word “examine” is omitted as being included in “inspect”. The word “considered” is omitted as surplus.

#### § 20108. Research, development, testing, and training

(a) GENERAL.—The Secretary of Transportation shall carry out, as necessary, research, development, testing, evaluation, and training for every area of railroad safety.

(b) CONTRACTS.—To carry out this part, the Secretary may make contracts for, and carry out, research, development, testing, evaluation, and training (particularly for those areas of railroad safety found to need prompt attention).

(c) AMOUNTS FROM NON-GOVERNMENT SOURCES FOR TRAINING SAFETY EMPLOYEES.—The Secretary may request, receive, and expend amounts received from non-United States Government sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, except State rail safety inspectors participating in training under section 20105 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 867.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>   |
|------------------------|---|---|
| 20108(a) .....         | 45:431(a) (1st sentence cl. (2)).   | Oct. 16, 1970, Pub. L. 91–458, §§202(a) (1st sentence cl. (2)), 208(a) (1st sentence words before 3d comma and between 9th–14th commas), 84 Stat. 971, 974.   |
| 20108(b) .....         | 45:437(a) (1st sentence words before 3d comma and between 9th–14th commas).<br>45:437(d)(1) (1st sentence). | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(1) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1813.  |
| 20108(c) .....         | 45:444(a) (last sentence).  | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(a) (last sentence); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Aug. 13, 1981, Pub. L. 97–35, §1195, 95 Stat. 702; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624; Nov. 5, 1990, Pub. L. 101–508, §10501(b), 104 Stat. 1388–400; restated Sept. 3, 1992, Pub. L. 102–365, §12, 106 Stat. 980. |

In subsection (b), the words “To carry out this part, the Secretary may” are substituted for “In carrying out his functions under this subchapter, the Secretary is authorized to perform such acts including, but not limited to . . . as he deems necessary to carry out the provisions of this subchapter” and “In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by sec-

tion 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix, the Secretary is authorized to perform any act authorized in subsection (a) of this section that he considers necessary to carry out such transferred functions, including, but not limited to” to eliminate unnecessary words.

#### § 20109. Employee protections

(a) FILING COMPLAINTS AND TESTIFYING.—A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, whether acting for the employee or as a representative, has—

(1) filed a complaint or brought or caused to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety, chapter 51 or 57 of this title; or

(2) testified or will testify in that proceeding.

(b) REFUSING TO WORK BECAUSE OF HAZARDOUS CONDITIONS.—(1) A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee for refusing to work when confronted by a hazardous condition related to the performance of the employee’s duties, if—

(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

(i) the hazardous condition presents an imminent danger of death or serious injury; and

(ii) the urgency of the situation does not allow sufficient time to eliminate the danger through regular statutory means; and

(C) the employee, where possible, has notified the carrier of the hazardous condition and the intention not to perform further work unless the condition is corrected immediately.

(2) This subsection does not apply to security personnel employed by a carrier to protect individuals and property transported by railroad.

(c) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim, the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than \$20,000.

(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

(e) DISCLOSURE OF IDENTITY.—(1) Except as provided in paragraph (2) of this subsection, or

with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety, chapter 51 or 57 of this title or a regulation prescribed or order issued under any of those provisions.

(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 867.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20109(a) .....         | 45:441(a).                | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §212(a)-(c)(1), (d); added Oct. 10, 1980, Pub. L. 96-423, §10, 94 Stat. 1815.   |
|                        | 45:441(e).                | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §212(e); added Oct. 10, 1980, Pub. L. 96-423, §10, 94 Stat. 1815; Sept. 3, 1992, Pub. L. 102-365, §5(b), 106 Stat. 975.             |
| 20109(b) .....         | 45:441(b).                | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §212(c)(2); added Oct. 10, 1980, Pub. L. 96-423, §10, 94 Stat. 1815; restated June 22, 1988, Pub. L. 100-342, §5(a), 102 Stat. 627. |
| 20109(c) .....         | 45:441(c)(1).             |  |
|                        | 45:441(c)(2).             |  |
| 20109(d) .....         | 45:441(d).                | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §212(f); added June 22, 1988, Pub. L. 100-342, §5(b), 102 Stat. 627.  |
| 20109(e) .....         | 45:441(e).                |  |
|                        | 45:441(f).                |  |

In subsections (a) and (b), the words “railroad carrier” are substituted for “common carrier by railroad” because of the definition of “railroad carrier” in section 20102 of the revised title.

In subsection (a)(1), the words “under or” are omitted as surplus.

In subsection (b)(1)(B), before subclause (i), the words “the hazardous condition is of such a nature that” are omitted as surplus. The word “individual” is substituted for “person” as being more appropriate. In subclause (ii), the words “resort to” are omitted as surplus.

In subsection (b)(1)(C), the words “his apprehension of” are omitted as surplus.

In subsection (b)(2), the words “by a carrier . . . transported by railroad” are substituted for “by a railroad . . . transported by such railroad” for consistency in the revised title.

Subsection (d) is substituted for 45:441(d) for clarity and to eliminate unnecessary words.

Subsection (e)(2) is substituted for 45:441(f)(2) to eliminate unnecessary words.

#### § 20110. Effect on employee qualifications and collective bargaining

This chapter does not—

(1) authorize the Secretary of Transportation to prescribe regulations and issue orders related to qualifications of employees, except qualifications specifically related to safety; or

(2) prohibit the bargaining representatives of railroad carriers and their employees from making collective bargaining agreements under the Railway Labor Act (45 U.S.C. 151 et seq.), including agreements related to quali-

fications of employees, that are not inconsistent with regulations prescribed and orders issued under this chapter.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 868.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>       | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------------|--|
| 20110 .....            | 45:431(a) (2d, last sentences). | Oct. 16, 1970, Pub. L. 91-458, §202(a) (2d, last sentences), 84 Stat. 971. |

In clause (2), the words “railroad carriers” are substituted for “common carriers” for consistency in this part.

#### REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (2), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

#### § 20111. Enforcement by the Secretary of Transportation

(a) EXCLUSIVE AUTHORITY.—The Secretary of Transportation has exclusive authority—

(1) to impose and compromise a civil penalty for a violation of a railroad safety regulation prescribed or order issued by the Secretary;

(2) except as provided in section 20113 of this title, to request an injunction for a violation of a railroad safety regulation prescribed or order issued by the Secretary; and

(3) to recommend appropriate action be taken under section 20112(a) of this title.

(b) COMPLIANCE ORDERS.—The Secretary may issue an order directing compliance with this part or with a railroad safety regulation prescribed or order issued under this part.

(c) ORDERS PROHIBITING INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS.—If an individual’s violation of this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or a regulation prescribed or order issued by the Secretary under this chapter is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met. This subsection does not affect the Secretary’s authority under section 20104 of this title to act on an emergency basis.

(d) REGULATIONS REQUIRING REPORTING OF REMEDIAL ACTIONS.—(1) The Secretary shall prescribe regulations to require that a railroad carrier notified by the Secretary that imposition of a civil penalty will be recommended for a failure to comply with this part, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions, shall report to the Secretary, not later than the 30th day after the end of the month in which the notification is received—

(A) actions taken to remedy the failure; or



(B) if appropriate remedial actions cannot be taken by that 30th day, an explanation of the reasons for the delay.

(2) The Secretary—

(A) not later than June 3, 1993, shall issue a notice of a regulatory proceeding for proposed regulations to carry out this subsection; and

(B) not later than September 3, 1994, shall prescribe final regulations to carry out this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 868; Pub. L. 103–440, title II, §205, Nov. 2, 1994, 108 Stat. 4620.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)            | Source (Statutes at Large)  |
|-----------------|-------------------------------|---|
| 20111(a) .....  | 45:435(a) (last sentence).    | Oct. 16, 1970, Pub. L. 91–458, §206(a) (last sentence), 84 Stat. 973; Nov. 16, 1990, Pub. L. 101–615, §28(a)(4), 104 Stat. 3276.  |
| 20111(b) .....  | 45:437(a) (2d sentence).      | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(a) (2d sentence); added Jan. 3, 1975, Pub. L. 93–633, §206, 88 Stat. 2166; June 22, 1988, Pub. L. 100–342, §8, 102 Stat. 628. |
|                 | 45:437(d)(1) (last sentence). | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(1) (last sentence); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1814.   |
| 20111(c) .....  | 45:438(f).                    | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §209(f); added June 22, 1988, Pub. L. 100–342, §3(a)(4), 102 Stat. 625.  |
| 20111(d) .....  | 45:437 (note).                | Sept. 3, 1992, Pub. L. 102–365, §3, 106 Stat. 972.  |

In this section, the word “impose” is substituted for “assess” for consistency.

In subsection (b), the word “further” is omitted as surplus.

In subsection (d), the words “this part, chapter 51 or 57 of this title” are substituted for “the Federal railroad safety laws, as such term is defined in section 441(e) of this title” because 45:441(e) is not restated as a definition.

#### REFERENCES IN TEXT

Section 6 of the Department of Transportation Act, referred to in subsec. (c), is section 6 of Pub. L. 89–670, which was classified to section 1655 of former Title 49, Transportation. Section 6 was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 103–272, July 5, 1994, 108 Stat. 745. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

#### AMENDMENTS

1994—Subsec. (c). Pub. L. 103–440 inserted “this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or” after “individual’s violation of”.

### § 20112. Enforcement by the Attorney General

(a) CIVIL ACTIONS.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in a district court of the United States—

(1) to enjoin a violation of, or to enforce, a railroad safety regulation prescribed or order issued by the Secretary;

(2) to collect a civil penalty imposed or an amount agreed on in compromise under section 21301 of this title; or

(3) to enforce a subpoena issued by the Secretary under this chapter.

(b) VENUE.—(1) Except as provided in paragraph (2) of this subsection, a civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If an action to collect a penalty is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action to enforce a subpoena issued by the Secretary or a compliance order issued under section 20111(b) of this title may be brought in the judicial district in which the defendant resides, does business, or is found.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 869.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)   | Source (Statutes at Large)  |
|-----------------|--|---|
| 20112(a) .....  | 45:437(a) (last sentence related to authority to bring actions). | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(a) (last sentence); added June 22, 1988, Pub. L. 100–342, §8, 102 Stat. 628.  |
|                 | 45:437(d)(2).  | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §208(d)(2); added Oct. 10, 1980, Pub. L. 96–423, §6(b), 94 Stat. 1814.   |
|                 | 45:438(c) (4th sentence related to authority to bring actions).  | Oct. 16, 1970, Pub. L. 91–458, §209(c) (4th sentence), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96–423, §8(a), 94 Stat. 1814; June 22, 1988, Pub. L. 100–342, §3(a)(3)(A), (B), 102 Stat. 624.                  |
|                 | 45:439(a) (related to actions by Attorney General).              | Oct. 16, 1970, Pub. L. 91–458, §210(a) (related to actions by Attorney General), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96–423, §9(a), 94 Stat. 1814; Nov. 16, 1990, Pub. L. 101–615, §28(f), 104 Stat. 3277. |
| 20112(b)(1) ..  | 45:438(c) (4th sentence related to venue).                       | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §210(c) (related to actions by Attorney General); added Oct. 10, 1980, Pub. L. 96–423, §9(b), 94 Stat. 1815.   |
|                 | 45:439(c) (related to actions by Attorney General).              |   |
| 20112(b)(2) ..  | 45:437(a) (last sentence related to venue).                      |   |

In subsection (a), before clause (1), the words “At the request of the Secretary of Transportation” are substituted for “at the request of the Secretary” in 45:439(a), and are made applicable to all of the source provisions restated in this subsection, for clarity and consistency. The words “at the request of the Secretary” in 45:439(a) are interpreted and restated to mean that the Secretary’s request is to the Attorney General rather than to the district court. See H.R. Rept. No. 91–1194, 91st Cong., 2d Sess., p. 20 (1970). The words “the Attorney General may bring a civil action in a district court of the United States” are substituted for “such district court shall have jurisdiction, upon petition by the Attorney General” in 45:437(a) (last sentence), “The district courts of the United States shall have jurisdiction, upon petition by the Attorney General” in 45:437(d)(2), and “The United States district court shall . . . upon petition by the Attorney General on behalf of the United States . . . have jurisdiction” in 45:439(a) for clarity and consistency. It is not necessary to restate that the district court has jurisdiction because of 28:1331 and 1345. See also the statement of Senator Prouty in 115 Cong. Rec. 40205 (1969) explaining that similar language in section 110 of S. 1933, 91st Cong., 1st Sess. (the derivative source for 45:439) would grant the Attorney General the power to seek injunctions. Clauses (1)–(3) are substituted for the source pro-

visions to eliminate unnecessary words. In clause (1), the words “subject to the provisions of rules 65(a) and (b) of the Federal Rules of Civil Procedure” in 45:439(a) are omitted as surplus because the Federal Rules of Civil Procedure (28 App. U.S.C.) apply in the district court unless otherwise provided. In clause (2), the words “or an amount agreed on in compromise” are added for clarity.

In subsection (b)(1), the text of 45:439(c) (words before 1st comma) is omitted because it applies only to actions brought by a State authority. See discussion of the cross-reference in the note for section 20113(c) of the revised title. The last sentence is substituted for “in which the individual resides” in 45:438(c) because of the restatement.

In subsection (b)(2), the words “compliance order issued under section 20111(b) of this title” are substituted for “order, or directive” because the latter words are interpreted as referring to “orders directing compliance” in 45:437(a) (2d sentence), restated in section 20111(b).

### § 20113. Enforcement by the States

(a) INJUNCTIVE RELIEF.—If the Secretary of Transportation does not begin a civil action under section 20112 of this title to enjoin the violation of a railroad safety regulation prescribed or order issued by the Secretary not later than 15 days after the date the Secretary receives notice of the violation and a request from a State authority participating in investigative and surveillance activities under section 20105 of this title that the action be brought, the authority may bring a civil action in a district court of the United States to enjoin the violation. This subsection does not apply if the Secretary makes an affirmative written finding that the violation did not occur or that the action is not necessary because of other enforcement action taken by the Secretary related to the violation.

(b) IMPOSITION AND COLLECTION OF CIVIL PENALTIES.—If the Secretary does not impose the applicable civil penalty for a violation of a railroad safety regulation prescribed or order issued by the Secretary not later than 60 days after the date of receiving notice from a State authority participating in investigative and surveillance activities under section 20105 of this title, the authority may bring a civil action in a district court of the United States to impose and collect the penalty. This paragraph does not apply if the Secretary makes an affirmative written finding that the violation did not occur.

(c) VENUE.—A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. However, a State authority may not bring an action under this section outside the State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 869.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                                  | <i>Source (Statutes at Large)</i>  |
|------------------------|--|--|
| 20113(a) .....         | 45:436(b)(1) (related to authority to bring actions), (2). | Oct. 16, 1970, Pub. L. 91–458, §207(b), (c), 84 Stat. 974; Nov. 2, 1978, Pub. L. 95–574, §8, 92 Stat. 2461; restated Oct. 10, 1980, Pub. L. 96–423, §5, 94 Stat. 1812. |

#### HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>   |
|------------------------|---|---|
|                        | 45:439(a) (related to actions by States).   | Oct. 16, 1970, Pub. L. 91–458, §210(a) (related to actions by States), 84 Stat. 975; Oct. 10, 1980, Pub. L. 96–423, §9(a), 94 Stat. 1814; Nov. 16, 1990, Pub. L. 101–615, §28(f), 104 Stat. 3277.                         |
| 20113(b) .....         | 45:436(a)(1) (related to authority to bring actions), (2).  | Oct. 16, 1970, Pub. L. 91–458, §207(a), 84 Stat. 974; Nov. 2, 1978, Pub. L. 95–574, §8, 92 Stat. 2461; restated Oct. 10, 1980, Pub. L. 96–423, §5, 94 Stat. 1812; Nov. 16, 1990, Pub. L. 101–615, §28(e), 104 Stat. 3277. |
| 20113(c) .....         | 45:436(a)(1) (related to venue), (b)(1) (related to venue), (c).<br>45:439(c) (related to actions by States). | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §210(c) (related to actions by States); added Oct. 10, 1980, Pub. L. 96–423, §9(b), 94 Stat. 1815.   |

In subsection (a), the language about jurisdiction in 45:439(a) (related to actions by States) is omitted for the reasons explained in the revision note for section 20112(a) of the revised title.

In subsection (b), the word “impose” is substituted for “assess” for consistency. The words “the authority may bring a civil action in an appropriate district court of the United States” are substituted for “agency may apply to the United States district court” for consistency in the revised title and with other titles of the United States Code. The words “included in or made applicable to such rule, regulation, order, or standard” are omitted as surplus.

In subsection (c), the reference to “section 207(d)” in section 210(c) of the Federal Railroad Safety Act of 1970 (Public Law 91–458, 84 Stat. 971), as added by section 9(b) of the Federal Railroad Safety Authorization Act of 1980 (Public Law 96–423, 94 Stat. 1815), is assumed to have been intended as a reference to section 207(c). The Federal Railroad Safety Authorization Act of 1980 was derived from S. 2730, which in turn was derived from H.R. 7104. See 126 Cong. Rec. 26535 (1980). Section 207(d) in an earlier version of H.R. 7104 was redesignated as section 207(c) during the legislative process and no section 207(d) was enacted. See H.R. Rept. No. 96–1025, 96th Cong., 2d Sess., pp. 14, 15 (1980).

### § 20114. Judicial procedures

(a) CRIMINAL CONTEMPT.—In a trial for criminal contempt for violating an injunction or restraining order issued under this chapter, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(b) SUBPENAS FOR WITNESSES.—A subpoena for a witness required to attend a district court of the United States in an action brought under this chapter may be served in any judicial district.

(c) REVIEW OF AGENCY ACTION.—Except as provided in section 20104(c) of this title, a proceeding to review a final action of the Secretary of Transportation under this part or, as applicable to railroad safety, chapter 51 or 57 of this title shall be brought in the appropriate court of appeals as provided in chapter 158 of title 28.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 870.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20114(a) .....         | 45:439(b).                | Oct. 16, 1970, Pub. L. 91-458, §§ 209(d), 210(b), 84 Stat. 975, 976.   |
| 20114(b) .....         | 45:438(d).                | Oct. 16, 1970, Pub. L. 91-458, § 202(f), 84 Stat. 972; re-stated Sept. 3, 1992, Pub. L. 102-365, § 5(a)(1), 106 Stat. 975. |
| 20114(c) .....         | 45:431(f).                |  |

In subsection (a), the words “the defendant may demand a jury trial” are substituted for “trial shall be by the court, or, upon demand of the accused, by a jury” to eliminate unnecessary words and for consistency in the revised title.

In subsection (b), the words “may be served in any judicial district” are substituted for “may run into any other district” for clarity.

In subsection (c), the words “a final action of the Secretary” are substituted for “Any final agency action taken by the Secretary” to eliminate unnecessary words. The words “this part or, as applicable to railroad safety, chapter 51 or 57 of this title” are substituted for “this subchapter or under any of the other Federal railroad safety laws, as defined in section 441(e) of this title” because of the restatement. The words “is subject to judicial review as provided in chapter 7 of title 5” are omitted as unnecessary because 5:ch. 7 applies unless otherwise stated. The words “by and in the manner prescribed” are omitted as surplus.

**§ 20115. User fees**

(a) **SCHEDULE OF FEES.**—The Secretary of Transportation shall prescribe by regulation a schedule of fees for railroad carriers subject to this chapter. The fees—

(1) shall cover the costs of carrying out this chapter (except section 20108(a));

(2) shall be imposed fairly on the railroad carriers, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors; and

(3) may not be based on that part of industry revenues attributable to a railroad carrier or class of railroad carriers.

(b) **COLLECTION PROCEDURES.**—The Secretary shall prescribe procedures to collect the fees. The Secretary may use the services of a department, agency, or instrumentality of the United States Government or of a State or local authority to collect the fees, and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(c) **COLLECTION, DEPOSIT, AND USE.**—(1) The Secretary shall impose and collect fees under this section for each fiscal year before the end of the fiscal year.

(2) Fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts. The fees may be used, to the extent provided in advance in an appropriation law, only to carry out this chapter.

(3) Fees prescribed under this section shall be imposed in an amount sufficient to pay for the costs of activities under this chapter. However, the total fees received for a fiscal year may not be more than 105 percent of the total amount of the appropriations for the fiscal year for activities to be financed by the fees.

(d) **ANNUAL REPORT.**—(1) Not later than 90 days after the end of each fiscal year in which fees

are collected under this section, the Secretary shall report to Congress on—

(A) the amount of fees collected during that fiscal year;

(B) the impact of the fees on the financial health of the railroad industry and its competitive position relative to each competing mode of transportation; and

(C) the total cost of Government safety activities for each other competing mode of transportation, including any part of that total cost defrayed by Government user fees.

(2) Not later than 90 days after submitting a report for a fiscal year, the Secretary shall submit to Congress recommendations for corrective legislation if the report includes a finding that—

(A) there has been an impact from the fees on the financial health of the railroad industry or its competitive position relative to each competing mode of transportation; or

(B) there is a significant difference in the burden of Government user fees on the railroad industry and other competing modes of transportation.

(e) **EXPIRATION.**—This section expires on September 30, 1995.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 870.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20115(a) .....         | 45:447(a)(1), (3).        | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, § 216; added Nov. 5, 1990, Pub. L. 101-508, § 10501(a), 104 Stat. 1388-399. |
| 20115(b) .....         | 45:447(a)(2).             |  |
| 20115(c) .....         | 45:447(b)-(d).            |  |
| 20115(d) .....         | 45:447(e).                |  |
| 20115(e) .....         | 45:447(f).                |  |

In subsection (a), before clause (1), the words “after notice and comment” are omitted as unnecessary because of 5:553.

In subsection (c), the words “beginning on March 1, 1991” are omitted as obsolete.

**[§ 20116. Repealed. Pub. L. 104-66, title I, § 1121(g)(1), Dec. 21, 1995, 109 Stat. 724]**

Section, added Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 871; amended Pub. L. 103-440, title II, § 206(a), Nov. 2, 1994, 108 Stat. 4620, related to biennial safety reports.

**§ 20117. Authorization of appropriations**

(a) **GENERAL.**—(1) Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter:

(A) \$68,283,000 for the fiscal year ending September 30, 1993.

(B) \$71,690,000 for the fiscal year ending September 30, 1994.

(C) \$68,289,000 for fiscal year 1995.

(D) \$75,112,000 for fiscal year 1996.

(E) \$82,563,000 for fiscal year 1997.

(F) \$90,739,000 for fiscal year 1998.

(2) Not more than \$5,000,000 may be appropriated to the Secretary for the fiscal year ending September 30, 1993, to carry out section 20105 of this title.

(b) **GRADE CROSSING SAFETY.**—Not more than \$1,000,000 may be appropriated to the Secretary for improvements in grade crossing safety, ex-

cept demonstration projects under section 20134(c) of this title. Amounts appropriated under this subsection remain available until expended.

(c) RESEARCH AND DEVELOPMENT, AUTOMATED TRACK INSPECTION, AND STATE PARTICIPATION GRANTS.—Amounts appropriated under this section for research and development, automated track inspection, and grants under section 20105(e) of this title remain available until expended.

(d) MINIMUM AVAILABLE FOR CERTAIN PURPOSES.—At least 50 percent of the amounts appropriated to the Secretary for a fiscal year to carry out railroad research and development programs under this chapter or another law shall be available for safety research, improved track inspection and information acquisition technology, improved railroad freight transportation, and improved railroad passenger systems.

(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, there are authorized to be appropriated for railroad research and development \$300,000 for fiscal year 1995, \$500,000 for fiscal year 1996, and \$750,000 for fiscal year 1997, to support Operation Lifesaver, Inc.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 872; Pub. L. 103–440, title II, §§202, 218, Nov. 2, 1994, 108 Stat. 4619, 4625.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20117(a)(1) ..         | 45:444(a) (1st sentence). | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(a) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Aug. 13, 1981, Pub. L. 97–35, §1195, 95 Stat. 702; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624; Nov. 5, 1990, Pub. L. 101–508, §10501(b), 104 Stat. 1388–400; restated Sept. 3, 1992, Pub. L. 102–365, §12, 106 Stat. 980. |
| 20117(a)(2) ..         | 45:435(h).                | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §206(h); Nov. 16, 1990, Pub. L. 101–615, §28(d), 104 Stat. 3277.  |
| 20117(b) .....         | 45:445(c).                | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §215(c); added June 22, 1988, Pub. L. 100–342, §20, 102 Stat. 638.  |
| 20117(c) .....         | 45:444(b).                | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(b); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624.  |
| 20117(d) .....         | 45:442.                   | Nov. 2, 1978, Pub. L. 95–574, §3, 92 Stat. 2459.   |

In subsection (a), references to fiscal years prior to 1993 are omitted as obsolete.

#### AMENDMENTS

1994—Subsec. (a)(1)(C) to (F). Pub. L. 103–440, §202, added subpars. (C) to (F).

Subsec. (e). Pub. L. 103–440, §218, added subsec. (e).

## SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

### § 20131. Restricted access to rolling equipment

The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that when railroad carrier employees (except train or yard crews) assigned to inspect, test, repair, or service rolling equipment have to work on, under, or between that equipment, every manually operated switch, including each crossover switch, providing access to the track on which the equipment is located is lined against movement to that track and secured by an effective locking device that can be removed only by the class or craft of employees performing the inspection, testing, repair, or service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 872.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>         | <i>Source (Statutes at Large)</i>   |
|------------------------|-----------------------------------|---|
| 20131 .....            | 45:431(g) (1st sentence cl. (1)). | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(g) (1st sentence cl. (1)); added July 8, 1976, Pub. L. 94–348, §5(b), 90 Stat. 820. |

The words “within 180 days after July 8, 1976” are omitted as expired.

### § 20132. Visible markers for rear cars

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) the rear car of each passenger and commuter train has at least one highly visible marker that is lighted during darkness and when weather conditions restrict clear visibility; and

(2) the rear car of each freight train has highly visible markers during darkness and when weather conditions restrict clear visibility.

(b) PREEMPTION.—Notwithstanding section 20106 of this title, subsection (a) of this section does not prohibit a State from continuing in force a law, regulation, or order in effect on July 8, 1976, related to lighted markers on the rear car of a freight train except to the extent it would cause the car to be in violation of this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 873.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>               | <i>Source (Statutes at Large)</i>  |
|------------------------|---|--|
| 20132(a) .....         | 45:431(g) (1st sentence cls. (2), (3)). | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(g) (1st sentence cls. (2), (3), last sentence); added July 8, 1976, Pub. L. 94–348, §5(b), 90 Stat. 820. |
| 20132(b) .....         | 45:431(g) (last sentence).              |  |

In subsection (a), before clause (1), the words “within 180 days after July 8, 1976” are omitted as expired.

### § 20133. Passenger cars

(a) MINIMUM STANDARDS.—The Secretary of Transportation shall prescribe regulations es-

tablishing minimum standards for the safety of cars used by railroad carriers to transport passengers. Before prescribing such regulations, the Secretary shall consider—

- (1) the crashworthiness of the cars;
- (2) interior features (including luggage restraints, seat belts, and exposed surfaces) that may affect passenger safety;
- (3) maintenance and inspection of the cars;
- (4) emergency response procedures and equipment; and
- (5) any operating rules and conditions that directly affect safety not otherwise governed by regulations.

The Secretary may make applicable some or all of the standards established under this subsection to cars existing at the time the regulations are prescribed, as well as to new cars, and the Secretary shall explain in the rulemaking document the basis for making such standards applicable to existing cars.

(b) **INITIAL AND FINAL REGULATIONS.**—(1) The Secretary shall prescribe initial regulations under subsection (a) within 3 years after November 2, 1994. The initial regulations may exempt equipment used by tourist, historic, scenic, and excursion railroad carriers to transport passengers.

(2) The Secretary shall prescribe final regulations under subsection (a) within 5 years after November 2, 1994.

(c) **PERSONNEL.**—The Secretary may establish within the Department of Transportation 2 additional full-time equivalent positions beyond the number permitted under existing law to assist with the drafting, prescribing, and implementation of regulations under this section.

(d) **CONSULTATION.**—In prescribing regulations, issuing orders, and making amendments under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to the Federal Advisory Committee Act (5 U.S.C. App.), but minutes of the consultation shall be placed in the public docket of the regulatory proceeding.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 873; Pub. L. 103-440, title II, §215(a), Nov. 2, 1994, 108 Stat. 4623; Pub. L. 104-287, §5(47), Oct. 11, 1996, 110 Stat. 3393.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                               | Source (Statutes at Large)  |
|-----------------|--|---|
| 20133(a) .....  | 45:431(h)(1)(A) (1st, last sentences), (B), (4). | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(h); added Oct. 10, 1980, Pub. L. 96-423, §14, 94 Stat. 1817; Jan. 14, 1983, Pub. L. 97-468, §702(a), 96 Stat. 2579. |
| 20133(b) .....  | 45:431(h)(1)(A) (2d, 3d sentences), (2).         |   |
| 20133(c) .....  | 45:431(h)(3).                                    |   |

In subsection (a), the words “within one year after January 14, 1983” and “initial” are omitted as obsolete. The text of 45:431(h)(1)(B) is omitted as executed. The words “after a hearing in accordance with subsection (b) of this section” are omitted as surplus because of section 20103(e) of the revised title.

In subsections (b) and (c), the word “subsequent” is omitted as surplus.

In subsection (c), the word “Amtrak” is substituted for “National Railroad Passenger Corporation” for consistency in this subtitle. The word “regulatory” is substituted for “rulemaking” for consistency in the revised title.

#### REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104-287, §5(47)(A), substituted “November 2, 1994” for “the date of enactment of the Federal Railroad Safety Authorization Act of 1994”.

Subsec. (b)(2). Pub. L. 104-287, §5(47)(B), substituted “November 2, 1994” for “such date of enactment”.

1994—Pub. L. 103-440 amended section generally, substituting present provisions for provisions requiring the Secretary to take administrative action to ensure that the construction, operation, and maintenance of passenger rail equipment maximize the safety of passengers, and providing for areas of consideration and concentration, as well as consultation with Amtrak.

#### § 20134. Grade crossings and railroad rights of way

(a) **GENERAL.**—To the extent practicable, the Secretary of Transportation shall maintain a coordinated effort to develop and carry out solutions to the railroad grade crossing problem and measures to protect pedestrians in densely populated areas along railroad rights of way. To carry out this subsection, the Secretary may use the authority of the Secretary under this chapter and over highway, traffic, and motor vehicle safety and over highway construction.

(b) **SIGNAL SYSTEMS AND OTHER DEVICES.**—Not later than June 22, 1989, the Secretary shall prescribe regulations and issue orders to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.

(c) **DEMONSTRATION PROJECTS.**—(1) The Secretary shall establish demonstration projects to evaluate whether accidents and incidents involving trains would be reduced by—

(A) reflective markers installed on the road surface or on a signal post at railroad grade crossings;

(B) stop signs or yield signs installed at grade crossings; and

(C) speed bumps or rumble strips installed on the road surfaces at the approaches to grade crossings.

(2) Not later than June 22, 1990, the Secretary shall submit a report on the results of the demonstration projects to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 873; Pub. L. 104-287, §5(48), Oct. 11, 1996, 110 Stat. 3393.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)                            |
|-----------------|--------------------|---|
| 20134(a) .....  | 45:433(b).         | Oct. 16, 1970, Pub. L. 91-458, §204(b), 84 Stat. 972. |

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20134(b) .....         | 45:431(q).                | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §§ 202(q), 215(a), (b); added June 22, 1988, Pub. L. 100-342, §§ 20, 23, 102 Stat. 638, 639; Sept. 3, 1992, Pub. L. 102-365, § 2(4), 106 Stat. 972. |
| 20134(c) .....         | 45:445(a), (b).           |  |

In subsection (a), the words “In addition” are omitted as surplus. The word “maintain” is substituted for “undertake” for clarity because the effort has begun. The words “the objective of” are omitted as surplus. The words “To carry out this section, the Secretary may use” are added for clarity.

In subsection (b), the words “Not later than June 22, 1989” are substituted for “within one year after June 22, 1988” for clarity.

In subsection (c)(1), before clause (A), and (2), the word “Secretary” is substituted for “Federal Railroad Administration” for clarity and consistency in the revised title. In this restatement, the Secretary of Transportation carries out all laws. However, this subsection is based on source provisions that provide that the Federal Railroad Administration carries out the subsection. A cross-reference to this subsection has been included in 49:103 to preserve duties and powers under this subsection to the Administrator of the Federal Railroad Administration.

In subsection (c)(1), before clause (A), the words “and incidents” are added for consistency in this part.

## AMENDMENTS

1996—Subsec. (c)(2). Pub. L. 104-287 substituted “Committee on Transportation and Infrastructure” for “Committee on Energy and Commerce”.

### § 20135. Licensing or certification of locomotive operators

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive.

(b) PROGRAM REQUIREMENTS.—The program established under subsection (a) of this section—

(1) shall be carried out through review and approval of each railroad carrier’s operator qualification standards;

(2) shall provide minimum training requirements;

(3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules;

(4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including—

(A) any denial, cancellation, revocation, or suspension of a motor vehicle operator’s license by a State for cause within the prior 5 years; and

(B) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title;

(5) may require, based on the individual’s driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and

(6) shall require an individual seeking a license or certification—

(A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator’s license within the prior 5 years to provide information about the individual’s driving record to the individual’s employer, prospective employer, or the Secretary, as the Secretary requires; and

(B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual’s employer, prospective employer, or the Secretary, as the Secretary requires.

(c) WAIVERS.—(1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive. However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2)(A) or (B) of this subsection only if the individual or class, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary.

(2) If an individual, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b)(4) of this section because of—

(A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

(B) the cancellation, revocation, or suspension of the individual’s motor vehicle operator’s license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(d) OPPORTUNITY FOR HEARING.—An individual denied a license or certification or whose license or certification is conditioned on requirements prescribed under subsection (b)(4) of this section shall be entitled to a hearing under section 20103(e) of this title to decide whether the license has been properly denied or conditioned.

(e) OPPORTUNITY TO EXAMINE AND COMMENT ON INFORMATION.—The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under subsection (b)(6) of this section available to the individual. The individual shall be given an opportunity to comment in writing about the information. Any comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains information to which the comment is related.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 874.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20135(a) .....         | 45:431(i)(1).             | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, § 202(i); added June 22, 1988, Pub. L. 100-342, §§ 4(a), 7(b), 102 Stat. 625, 628; Sept. 3, 1992, Pub. L. 102-365, § 2(1), 106 Stat. 972. |
| 20135(b) .....         | 45:431(i)(2).             |  |
| 20135(c)(1) ..         | 45:431(i)(4).             |  |
| 20135(c)(2) ..         | 45:431(i)(6).             |  |
| 20135(d) .....         | 45:431(i)(5).             |  |
| 20135(e) .....         | 45:431(i)(3).             |  |

In subsection (a), the words “within 12 months after June 22, 1988” are omitted as executed. The words “including any locomotive engineer” are omitted as surplus. The words “after one year after” are substituted for “after the expiration of 12 months following” to eliminate unnecessary words.

In subsection (b)(5), the word “requirements” is substituted for “terms” for consistency in this section.

In subsection (c)(1), the words “In establishing the program under this subsection” are omitted as surplus.

### § 20136. Automatic train control and related systems

The Secretary of Transportation shall prescribe regulations and issue orders to require that—

(1) an individual performing a test of an automatic train stop, train control, or cab signal apparatus required by the Secretary to be performed before entering territory where the apparatus will be used shall certify in writing that the test was performed properly; and

(2) the certification required under clause (1) of this section shall be maintained in the same way and place as the daily inspection report for the locomotive.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 875; Pub. L. 103-429, § 6(19), Oct. 31, 1994, 108 Stat. 4379.)

## HISTORICAL AND REVISION NOTES

PUB. L. 103-272

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20136 .....            | 45:431(j).                | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, § 202(j); added June 22, 1988, Pub. L. 100-342, § 9, 102 Stat. 628. |

The words “Within 90 days after June 22, 1988” are omitted as expired.

PUB. L. 103-429

This amends 49:20136(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 875).

## AMENDMENTS

1994—Par. (2). Pub. L. 103-429 substituted “section” for “subsection”.

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

## § 20137. Event recorders

(a) DEFINITION.—In this section, “event recorder” means a device that—

(1) records train speed, hot box detection, throttle position, brake application, brake op-

erations, and any other function the Secretary of Transportation considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

(2) is designed to resist tampering.

(b) REGULATIONS AND ORDERS.—Not later than December 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to enhance safety by requiring that a train be equipped with an event recorder not later than one year after the regulations are prescribed and the orders are issued. However, if the Secretary finds it is impracticable to equip trains within that one-year period, the Secretary may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 875.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 20137 .....            | 45:431(m).                | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, § 202(m); added June 22, 1988, Pub. L. 100-342, § 10, 102 Stat. 629. |

In subsection (b), the words “Not later than December 22, 1989” are substituted for “within 18 months after June 22, 1988” for clarity. The words “may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued” are substituted for “may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past 18 months after such rules, regulations, orders, and standards are issued” to eliminate unnecessary words.

### § 20138. Tampering with safety and operational monitoring devices

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to prohibit the willful tampering with, or disabling of, any specified railroad safety or operational monitoring device.

(b) PENALTIES.—(1) A railroad carrier operating a train on which a safety or operational monitoring device is tampered with or disabled in violation of a regulation prescribed or order issued under subsection (a) of this section is liable to the United States Government for a civil penalty under section 21301 of this title.

(2) An individual tampering with or disabling a safety or operational monitoring device in violation of a regulation prescribed or order issued under subsection (a) of this section, or knowingly operating or allowing to be operated a train on which such a device has been tampered with or disabled, is liable for penalties established by the Secretary. The penalties may include—

(A) a civil penalty under section 21301 of this title;

(B) suspension from work; and

(C) suspension or loss of a license or certification issued under section 20135 of this title.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 876.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20138 .....            | 45:431(o).                | Oct 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(o); added June 22, 1988, Pub. L. 100-342, §21, 102 Stat. 638; Sept. 3, 1992, Pub. L. 102-365, §2(3), 106 Stat. 972. |

In subsection (a), the words “within 90 days after June 22, 1988” are omitted as expired.

In subsection (b), the words “by another person” are omitted as surplus.

### § 20139. Maintenance-of-way operations on railroad bridges

Not later than June 22, 1989, the Secretary of Transportation shall prescribe regulations and issue orders for the safety of maintenance-of-way employees on railroad bridges. The Secretary at least shall provide in those regulations standards for bridge safety equipment, including nets, walkways, handrails, and safety lines, and requirements for the use of vessels when work is performed on bridges located over bodies of water.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 876.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20139 .....            | 45:431(n).                | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(n); added June 22, 1988, Pub. L. 100-342, §19(a), 102 Stat. 637; Sept. 3, 1992, Pub. L. 102-365, §2(2), 106 Stat. 972. |

The words “Not later than June 22, 1989” are substituted for “within one year after June 22, 1988” for clarity.

### § 20140. Alcohol and controlled substances testing

(a) DEFINITION.—In this section, “controlled substance” means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) GENERAL.—(1) In the interest of safety, the Secretary of Transportation shall prescribe regulations and issue orders, not later than October 28, 1992, related to alcohol and controlled substances use in railroad operations. The regulations shall establish a program requiring—

(A) a railroad carrier to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of a controlled substance in violation of law or a United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation; the regulations shall permit such railroad carriers to conduct preemployment testing of such employees for the use of alcohol; and

(B) when the Secretary considers it appropriate, disqualification for an established period of time or dismissal of any employee found—

(i) to have used or been impaired by alcohol when on duty; or

(ii) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or a regulation or order under this chapter.

(2) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations and issue orders requiring railroad carriers to conduct periodic recurring testing of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in controlled substances testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after



being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(d) **REHABILITATION.**—The Secretary of Transportation shall prescribe regulations or issue orders establishing requirements for rehabilitation programs that at least provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) in need of assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. Each railroad carrier is encouraged to make such a program available to all of its employees in addition to employees responsible for safety-sensitive functions. This subsection does not prevent a railroad carrier from establishing a program under this subsection in cooperation with another railroad carrier.

(e) **INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS AND REGULATIONS.**—In carrying out this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(f) **OTHER REGULATIONS ALLOWED.**—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed or order issued before October 28, 1991, governing the use of alcohol or a controlled substance in railroad operations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 876; Pub. L. 104–59, title III, §342(b), Nov. 28, 1995, 109 Stat. 609.)

In subsection (b)(1), before clause (A), the words “controlled substances” are substituted for “drug” for consistency in this section. In clauses (B) and (C), the word “found” is substituted for “determined” for consistency in the revised title.

In subsection (c)(3), the words “of any employee” are omitted as surplus.

In subsection (c)(4), the words “by any employee” are omitted as surplus.

In subsection (c)(5), the word “tested” is substituted for “assayed” for consistency. The words “2d confirmation test” are substituted for “independent test” for clarity and consistency.

#### AMENDMENTS

1995—Subsec. (b)(1)(A). Pub. L. 104–59 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “a railroad carrier to conduct pre-employment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation; and”.

#### § 20141. Power brake safety

(a) **REVIEW AND REVISION OF EXISTING REGULATIONS.**—The Secretary of Transportation shall review existing regulations on railroad power brakes and, not later than December 31, 1993, revise the regulations based on safety information presented during the review. Where applicable, the Secretary shall prescribe regulations that establish standards on dynamic braking equipment.

(b) **2-WAY END-OF-TRAIN DEVICES.**—(1) The Secretary shall require 2-way end-of-train devices (or devices able to perform the same function) on road trains, except locals, road switchers, or work trains, to enable the initiation of emergency braking from the rear of a train. The Secretary shall prescribe regulations as soon as possible, but not later than December 31, 1993, requiring the 2-way end-of-train devices. The regulations at least shall—

(A) establish standards for the devices based on performance;

(B) prohibit a railroad carrier, on or after the date that is one year after the regulations are prescribed, from acquiring any end-of-train device for use on trains that is not a 2-way device meeting the standards established under clause (A) of this paragraph;

(C) require that the trains be equipped with 2-way end-of-train devices meeting those standards not later than 4 years after the regulations are prescribed; and

(D) provide that any 2-way end-of-train device acquired for use on trains before the regulations are prescribed shall be deemed to meet the standards.

(2) The Secretary may consider petitions to amend the regulations prescribed under paragraph (1) of this subsection to allow the use of alternative technologies that meet the same basic performance requirements established by the regulations.

(3) In developing the regulations required by paragraph (1) of this subsection, the Secretary shall consider information presented under subsection (a) of this section.

(c) **EXCLUSIONS.**—The Secretary may exclude from regulations prescribed under subsections

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)               | Source (Statutes at Large)   |
|-----------------|----------------------------------|--|
| 20140(a) .....  | 45:431(r)(5).                    | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(r); added Oct. 28, 1991, Pub. L. 102–143, §4, 105 Stat. 957. |
| 20140(b) .....  | 45:431(r)(1) (1st–3d sentences). |  |
| 20140(c) .....  | 45:431(r)(2).                    |  |
| 20140(d) .....  | 45:431(r)(3).                    |  |
| 20140(e) .....  | 45:431(r)(4).                    |  |
| 20140(f) .....  | 45:431(r)(1) (last sentence).    |  |

(a) and (b) of this section any category of trains or rail operations if the Secretary decides that the exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for the exclusion. The Secretary at least shall exclude from the regulations prescribed under subsection (b)—

- (1) trains that have manned cabooses;
- (2) passenger trains with emergency brakes;
- (3) trains that operate only on track that is not part of the general railroad system;
- (4) trains that do not exceed 30 miles an hour and do not operate on heavy grades, except for any categories of trains specifically designated by the Secretary; and
- (5) trains that operate in a push mode.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 878.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20141(a) .....         | 45:431(r)(1), (2).        | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(r); added Sept. 3, 1992, Pub. L. 102-365, §7, 106 Stat. 976. |
| 20141(b) .....         | 45:431(r)(3).             |  |
| 20141(c) .....         | 45:431(r)(4).             |  |

### § 20142. Track safety

(a) REVIEW OF EXISTING REGULATIONS.—Not later than March 3, 1993, the Secretary of Transportation shall begin a review of Department of Transportation regulations related to track safety standards. The review at least shall include an evaluation of—

- (1) procedures associated with maintaining and installing continuous welded rail and its attendant structure, including cold weather installation procedures;
- (2) the need for revisions to regulations on track excepted from track safety standards; and
- (3) employee safety.

(b) REVISION OF REGULATIONS.—Not later than September 1, 1995, the Secretary shall prescribe regulations and issue orders to revise track safety standards, considering safety information presented during the review under subsection (a) of this section and the report of the Comptroller General submitted under subsection (c) of this section.

(c) COMPTROLLER GENERAL'S STUDY AND REPORT.—The Comptroller General shall study the effectiveness of the Secretary's enforcement of track safety standards, with particular attention to recent relevant railroad accident experience and information. Not later than September 3, 1993, the Comptroller General shall submit a report to Congress and the Secretary on the results of the study, with recommendations for improving enforcement of those standards.

(d) IDENTIFICATION OF INTERNAL RAIL DEFECTS.—In carrying out subsections (a) and (b), the Secretary shall consider whether or not to prescribe regulations and issue orders concerning—

- (1) inspection procedures to identify internal rail defects, before they reach imminent failure size, in rail that has significant shelling; and

(2) any specific actions that should be taken when a rail surface condition, such as shelling, prevents the identification of internal defects.

(e) TRACK STANDARDS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this subsection, the Federal Railroad Administration shall—

(A) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

(2) INSPECTION.—Whenever the Administration determines that it is necessary or appropriate, the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 879; Pub. L. 103-440, title II, §208, Nov. 2, 1994, 108 Stat. 4621; Pub. L. 109-59, title IX, §9005(a), Aug. 10, 2005, 119 Stat. 1924.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>         | <i>Source (Statutes at Large)</i>  |
|------------------------|-----------------------------------|--|
| 20142(a) .....         | 45:431(s)(1) (1st sentence), (2). | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(s); added Sept. 3, 1992, Pub. L. 102-365, §8, 106 Stat. 976. |
| 20142(b) .....         | 45:431(s)(1) (last sentence).     |  |
| 20142(c) .....         | 45:431(s)(3).                     |  |

In subsection (c), the word “information” is substituted for “data” for consistency in the revised title.

#### REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

#### AMENDMENTS

2005—Subsec. (e). Pub. L. 109-59 added subsec. (e).

1994—Subsec. (a)(1). Pub. L. 103-440, §208(2), inserted “, including cold weather installation procedures” after “attendant structure”.

Subsec. (b). Pub. L. 103-440, §208(1), substituted “September 1, 1995” for “September 3, 1994”.

Subsec. (d). Pub. L. 103-440, §208(3), added subsec. (d).

### § 20143. Locomotive visibility

(a) DEFINITION.—In this section, “locomotive visibility” means the enhancement of day and night visibility of the front end unit of a train, considering in particular the visibility and perspective of a driver of a motor vehicle at a grade crossing.

(b) INTERIM REGULATIONS.—Not later than December 31, 1992, the Secretary of Transportation shall prescribe temporary regulations identify-

ing ditch, crossing, strobe, and oscillating lights as temporary locomotive visibility measures and authorizing and encouraging the installation and use of those lights. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation or to an amendment to a temporary regulation.

(c) **REVIEW OF REGULATIONS.**—The Secretary shall review the Secretary's regulations on locomotive visibility. Not later than December 31, 1993, the Secretary shall complete the current research of the Department of Transportation on locomotive visibility. In conducting the review, the Secretary shall collect relevant information from operational experience by rail carriers using enhanced visibility measures.

(d) **REGULATORY PROCEEDING.**—Not later than June 30, 1994, the Secretary shall begin a regulatory proceeding to prescribe final regulations requiring substantially enhanced locomotive visibility measures. In the proceeding, the Secretary shall consider at least—

- (1) revisions to the existing locomotive headlight standards, including standards for placement and intensity;
- (2) requiring the use of reflective material to enhance locomotive visibility;
- (3) requiring the use of additional alerting lights, including ditch, crossing, strobe, and oscillating lights;
- (4) requiring the use of auxiliary lights to enhance locomotive visibility when viewed from the side;
- (5) the effect of an enhanced visibility measure on the vision, health, and safety of train crew members; and
- (6) separate standards for self-propelled, push-pull, and multi-unit passenger operations without a dedicated head end locomotive.

(e) **FINAL REGULATIONS.**—(1) Not later than June 30, 1995, the Secretary shall prescribe final regulations requiring enhanced locomotive visibility measures. The Secretary shall require that not later than December 31, 1997, a locomotive not excluded from the regulations be equipped with temporary visibility measures under subsection (b) of this section or the visibility measures the final regulations require.

(2) In prescribing regulations under paragraph (1) of this subsection, the Secretary may exclude a category of trains or rail operations from a specific visibility requirement if the Secretary decides the exclusion is in the public interest and is consistent with rail safety, including grade-crossing safety.

(3) A locomotive equipped with temporary visibility measures prescribed under subsection (b) of this section when final regulations are prescribed under paragraph (1) of this subsection is deemed to be complying with the final regulations for 4 years after the final regulations are prescribed.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 880.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20143(a) .....         | 45:431(u)(6).             | Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §202(u); added Oct. 27, 1992, Pub. L. 102–533, §14, 106 Stat. 3522. |

#### HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>         | <i>Source (Statutes at Large)</i> |
|------------------------|-----------------------------------|-----------------------------------|
| 20143(b) .....         | 45:431(u)(2) (1st, 2d sentences). |                                   |
| 20143(c) .....         | 45:431(u)(1).                     |                                   |
| 20143(d) .....         | 45:431(u)(3).                     |                                   |
| 20143(e)(1) ..         | 45:431(u)(5).                     |                                   |
| 20143(e)(2) ..         | 45:431(u)(4).                     |                                   |
| 20143(e)(3) ..         | 45:431(u)(2) (last sentence).     |                                   |

In this section, the word “visibility” is substituted for “conspicuity” for clarity and consistency in this chapter.

In subsection (a), the words “by means of lighting, reflective materials, or other means” are omitted as surplus.

In subsection (b), the words “those lights” are substituted for “such measures” for clarity.

In subsection (c), the word “Secretary’s” is substituted for “Department of Transportation’s” because of 49:102(b). The word “using” is substituted for “having . . . in service” to eliminate unnecessary words.

In subsection (e)(2) and (3) of this section, the reference is to paragraph (1) of this subsection, rather than to subsection (d) of this section, because the regulations are prescribed under paragraph (1).

In subsection (e)(2), the words “a category” are substituted for “and category” to correct an apparent mistake in the source provision. See S. Rept. 102–990, 102d Cong., 2d Sess., p. 18 (1992).

In subsection (e)(3), the word “full” is omitted as surplus.

#### § 20144. Blue signal protection for on-track vehicles

The Secretary of Transportation shall prescribe regulations applying blue signal protection to on-track vehicles where rest is provided.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 881.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>                      |
|------------------------|---------------------------|--|
| 20144 .....            | (uncodified).             | June 22, 1988, Pub. L. 100–342, §19(c), 102 Stat. 638. |

The words “prescribe regulations” are substituted for “within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations” because the regulations to carry out this section have been prescribed.

#### § 20145. Report on bridge displacement detection systems

Not later than 18 months after November 2, 1994, the Secretary of Transportation shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning any action that has been taken by the Secretary on railroad bridge displacement detection systems.

(Added Pub. L. 103–440, title II, §207(a), Nov. 2, 1994, 108 Stat. 4621; amended Pub. L. 104–287, §5(48), (49), Oct. 11, 1996, 110 Stat. 3393.)

#### AMENDMENTS

1996—Pub. L. 104–287 substituted “November 2, 1994” for “the date of enactment of the Federal Railroad Safety Authorization Act of 1994” and “Committee on Transportation and Infrastructure” for “Committee on Energy and Commerce”.

**§ 20146. Institute for Railroad Safety**

The Secretary of Transportation, in conjunction with a university or college having expertise in transportation safety, shall establish, within one year after November 2, 1994, an Institute for Railroad Safety. The Institute shall research, develop, fund, and test measures for reducing the number of fatalities and injuries relevant to railroad operations. There are authorized to be appropriated to the Secretary \$1,000,000 for each of the fiscal years 1996 through 2000 to fund activities carried out under this section by the Institute, which shall report at least once each year on its use of such funds in carrying out such activities and the results thereof to the Secretary of Transportation and the Congress.

(Added Pub. L. 103-440, title II, §210(a), Nov. 2, 1994, 108 Stat. 4621; amended Pub. L. 104-287, §5(49), Oct. 11, 1996, 110 Stat. 3393.)

**AMENDMENTS**

1996—Pub. L. 104-287 substituted “November 2, 1994” for “the date of enactment of the Federal Railroad Safety Authorization Act of 1994”.

**§ 20147. Warning of civil liability**

The Secretary of Transportation shall encourage railroad carriers to warn the public about potential liability for violation of regulations related to vandalism of railroad signs, devices, and equipment and to trespassing on railroad property.

(Added Pub. L. 103-440, title II, §211(a), Nov. 2, 1994, 108 Stat. 4622.)

**§ 20148. Railroad car visibility**

(a) **REVIEW OF RULES.**—The Secretary of Transportation shall conduct a review of the Department of Transportation’s rules with respect to railroad car visibility. As part of this review, the Secretary shall collect relevant data from operational experience by railroads having enhanced visibility measures in service.

(b) **REGULATIONS.**—If the review conducted under subsection (a) establishes that enhanced railroad car visibility would likely improve safety in a cost-effective manner, the Secretary shall initiate a rulemaking proceeding to prescribe regulations requiring enhanced visibility standards for newly manufactured and remanufactured railroad cars. In such proceeding the Secretary shall consider, at a minimum—

- (1) visibility of railroad cars from the perspective of nonrailroad traffic;
- (2) whether certain railroad car paint colors should be prohibited or required;
- (3) the use of reflective materials;
- (4) the visibility of lettering on railroad cars;
- (5) the effect of any enhanced visibility measures on the health and safety of train crew members; and
- (6) the cost/benefit ratio of any new regulations.

(c) **EXCLUSIONS.**—In prescribing regulations under subsection (b), the Secretary may exclude from any specific visibility requirement any category of trains or railroad operations if the Sec-

retary determines that such an exclusion is in the public interest and is consistent with railroad safety.

(Added Pub. L. 103-440, title II, §212(a), Nov. 2, 1994, 108 Stat. 4622.)

**§ 20149. Coordination with the Department of Labor**

The Secretary of Transportation shall consult with the Secretary of Labor on a regular basis to ensure that all applicable laws affecting safe working conditions for railroad employees are appropriately enforced to ensure a safe and productive working environment for the railroad industry.

(Added Pub. L. 103-440, title II, §213(a), Nov. 2, 1994, 108 Stat. 4623.)

**§ 20150. Positive train control system progress report**

The Secretary of Transportation shall submit a report to the Congress on the development, deployment, and demonstration of positive train control systems by December 31, 1995.

(Added Pub. L. 103-440, title II, §214(a), Nov. 2, 1994, 108 Stat. 4623.)

**§ 20151. Railroad trespassing and vandalism prevention strategy**

(a) **EVALUATION OF EXISTING LAWS.**—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property and vandalism affecting railroad safety, and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after November 2, 1994. The Secretary shall revise such model prevention strategies and enforcement codes periodically.

(b) **OUTREACH PROGRAM.**—The Secretary shall develop and maintain a comprehensive outreach program to improve communications among Federal railroad safety inspectors, State inspectors certified by the Federal Railroad Administration, railroad police, and State and local law enforcement officers, for the purpose of addressing trespassing and vandalism problems on railroad property, and strengthening relevant enforcement strategies. This program shall be designed to increase public and police awareness of the illegality of, dangers inherent in, and the extent of, trespassing on railroad rights-of-way, to develop strategies to improve the prevention of trespassing and vandalism, and to improve the enforcement of laws relating to railroad trespass, vandalism, and safety.

(c) **MODEL LEGISLATION.**—Within 18 months after November 2, 1994, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for—

- (1) civil or criminal penalties, or both, for vandalism of railroad equipment or property which could affect the safety of the public or of railroad employees; and

(2) civil or criminal penalties, or both, for trespassing on a railroad owned or leased right-of-way.

(Added Pub. L. 103-440, title II, §219(a), Nov. 2, 1994, 108 Stat. 4625; amended Pub. L. 104-287, §5(49), Oct. 11, 1996, 110 Stat. 3393.)

#### AMENDMENTS

1996—Subsecs. (a), (c). Pub. L. 104-287 substituted “November 2, 1994” for “the date of enactment of the Federal Railroad Safety Authorization Act of 1994”.

### § 20152. Emergency notification of grade crossing problems

(a) PILOT PROGRAMS.—The Secretary of Transportation shall conduct a pilot program to demonstrate an emergency notification system utilizing a toll free telephone number that the public can use to convey to railroad carriers, either directly or through public safety personnel, information about malfunctions or other safety problems at railroad-highway grade crossings. The pilot program, at a minimum—

(1) shall include railroad-highway grade crossings in at least 2 States;

(2) shall include provisions for public education and awareness of the program; and

(3) shall require information to be posted at the railroad-highway grade crossing describing the emergency notification system and instructions on how to use the system.

The Secretary may, by grant, provide funding for the expense of information signs and public awareness campaigns necessary to demonstrate the notification system.

(b) REPORT.—The Secretary shall complete the pilot program not later than 24 months after November 2, 1994, and shall submit to the Congress not later than 30 months after November 2, 1994, an evaluation of the pilot program, together with findings as to the effectiveness of such emergency notification systems. The report shall compare and contrast the structure, cost, and effectiveness of the pilot program with other emergency notification systems in effect within other States. Such evaluation shall include analyses of the safety benefits derived from the programs, cost effectiveness, and the burdens on participants, including railroad carriers and law enforcement personnel.

(Added Pub. L. 103-440, title III, §301(a), Nov. 2, 1994, 108 Stat. 4626; amended Pub. L. 104-287, §5(50), Oct. 11, 1996, 110 Stat. 3393.)

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-287 substituted “November 2, 1994” for “the date of enactment of this section” and “November 2, 1994, an evaluation” for “that date an evaluation”.

### § 20153. Audible warnings at highway-rail grade crossings

(a) DEFINITIONS.—As used in this section—

(1) the term “highway-rail grade crossing” includes any street or highway crossing over a line of railroad at grade;

(2) the term “locomotive horn” refers to a train-borne audible warning device meeting standards specified by the Secretary of Transportation; and

(3) the term “supplementary safety measure” refers to a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel), and that conforms to standards prescribed by the Secretary under this subsection, shall be deemed to constitute a supplementary safety measure. The following do not, individually or in combination, constitute supplementary safety measures within the meaning of this subsection: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

(b) REQUIREMENT.—The Secretary of Transportation shall prescribe regulations requiring that a locomotive horn shall be sounded while each train is approaching and entering upon each public highway-rail grade crossing.

(c) EXCEPTION.—(1) In issuing such regulations, the Secretary may except from the requirement to sound the locomotive horn any categories of rail operations or categories of highway-rail grade crossings (by train speed or other factors specified by regulation)—

(A) that the Secretary determines not to present a significant risk with respect to loss of life or serious personal injury;

(B) for which use of the locomotive horn as a warning measure is impractical; or

(C) for which, in the judgment of the Secretary, supplementary safety measures fully compensate for the absence of the warning provided by the locomotive horn.

(2) In order to provide for safety and the quiet of communities affected by train operations, the Secretary may specify in such regulations that any supplementary safety measures must be applied to all highway-rail grade crossings within a specified distance along the railroad in order to be excepted from the requirement of this section.

(d) APPLICATION FOR WAIVER OR EXEMPTION.—Notwithstanding any other provision of this subchapter, the Secretary may not entertain an application for waiver or exemption of the regulations issued under this section unless such application shall have been submitted jointly by the railroad carrier owning, or controlling operations over, the crossing and by the appropriate traffic control authority or law enforcement authority. The Secretary shall not grant any such application unless, in the judgment of the Secretary, the application demonstrates that the safety of highway users will not be diminished.

(e) DEVELOPMENT OF SUPPLEMENTARY SAFETY MEASURES.—(1) In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at

highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures, order railroad carriers operating over one or more crossings to cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn.

(2) The Secretary may include in regulations issued under this subsection special procedures for approval of new supplementary safety measures meeting the requirements of subsection (c)(1) of this section following successful demonstration of those measures.

(f) SPECIFIC RULES.—The Secretary may, by regulation, provide that the following crossings over railroad lines shall be subject, in whole or in part, to the regulations required under this section:

- (1) Private highway-rail grade crossings.
- (2) Pedestrian crossings.

(3) Crossings utilized primarily by non-motorized vehicles and other special vehicles. Regulations issued under this subsection shall not apply to any location where persons are not authorized to cross the railroad.

(g) ISSUANCE.—The Secretary shall issue regulations required by this section pertaining to categories of highway-rail grade crossings that in the judgment of the Secretary pose the greatest safety hazard to rail and highway users not later than 24 months following November 2, 1994. The Secretary shall issue regulations pertaining to any other categories of crossings not later than 48 months following November 2, 1994.

(h) IMPACT OF REGULATIONS.—The Secretary shall include in regulations prescribed under this section a concise statement of the impact of such regulations with respect to the operation of section 20106 of this title (national uniformity of regulation).

(i) REGULATIONS.—In issuing regulations under this section, the Secretary—

(1) shall take into account the interest of communities that—

(A) have in effect restrictions on the sounding of a locomotive horn at highway-rail grade crossings; or

(B) have not been subject to the routine (as defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings;

(2) shall work in partnership with affected communities to provide technical assistance and shall provide a reasonable amount of time for local communities to install supplementary safety measures, taking into account local safety initiatives (such as public awareness initiatives and highway-rail grade crossing traffic law enforcement programs) subject to such terms and conditions as the Secretary deems necessary, to protect public safety; and

(3) may waive (in whole or in part) any requirement of this section (other than a requirement of this subsection or subsection (j)) that the Secretary determines is not likely to contribute significantly to public safety.

(j) EFFECTIVE DATE OF REGULATIONS.—Any regulations under this section shall not take effect

before the 365th day following the date of publication of the final rule.

(Added Pub. L. 103-440, title III, § 302(a), Nov. 2, 1994, 108 Stat. 4626; amended Pub. L. 104-264, title XII, § 1218(a), Oct. 9, 1996, 110 Stat. 3285; Pub. L. 104-287, § 5(51), Oct. 11, 1996, 110 Stat. 3393.)

#### AMENDMENTS

1996—Subsec. (g). Pub. L. 104-287 substituted “November 2, 1994” for “the date of enactment of this section” in two places.

Subsecs. (i), (j). Pub. L. 104-264 added subsecs. (i) and (j).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

### § 20154. Capital grants for rail line relocation projects

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation and improvement projects.

(b) ELIGIBILITY.—A State is eligible for a grant under this section for any construction project for the improvement of the route or structure of a rail line that either—

(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, community quality of life, or economic development; or

(2) involves a lateral or vertical relocation of any portion of the rail line.

(c) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

(2) The requirement and limitation relating to allocation of grant funds provided in subsection (d).

(3) Equitable treatment of the various regions of the United States.

(4) The effects of the rail line, relocated or improved as proposed, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce.

(5) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

(d) ALLOCATION REQUIREMENTS.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than \$20,000,000 each. The \$20,000,000 amount shall be adjusted by the Secretary to reflect inflation for fiscal years beginning after fiscal year 2006.

(e) NON-FEDERAL SHARE.—

(1) PERCENTAGE.—A State or other non-Federal entity shall pay at least 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

(2) **FORMS OF CONTRIBUTIONS.**—The share required by paragraph (1) may be paid in cash or in kind.

(3) **IN-KIND CONTRIBUTIONS.**—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State or other non-Federal entity are as follows:

(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

(B) A contribution of the services of employees of the State or other non-Federal entity, calculated on the basis of costs incurred by the State or other non-Federal entity for the pay and benefits of the employees, but excluding overhead and general administrative costs.

(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

(4) **FINANCIAL CONTRIBUTION FROM PRIVATE ENTITIES.**—

(A) The Secretary shall require a State to submit a description of the anticipated public and private benefits associated with each rail line relocation or improvement project described in subsection (a). The determination of such benefits shall be developed in consultation with the owner and user of the rail line being relocated or improved or other private entity involved in the project.

(B) The Secretary shall consider the feasibility of seeking financial contributions or commitments from private entities involved with the project in proportion to the expected benefits determined under subparagraph (A) that accrue to such entities from the project.

(f) **AGREEMENTS TO COMBINE AMOUNTS.**—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

(1) the project will benefit each of the States entering into the agreement; and

(2) the agreement is not a violation of a law of any such State.

(g) **REGULATIONS.**—The Secretary shall prescribe regulations for carrying out this section.

(h) **DEFINITIONS.**—In this section:

(1) **CONSTRUCTION.**—The term “construction” means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a project described under subsection (b)(1) of this section, including bond costs and other costs relating to the issuance of bonds or other debt financing instruments and costs incurred by the State in performing project related audits, and includes—

(A) locating, surveying, and mapping;

(B) track installation, restoration, and rehabilitation;

(C) acquisition of rights-of-way;

(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

(E) elimination of obstacles and relocation of utilities; and

(F) other activities defined by the Secretary.

(2) **QUALITY OF LIFE.**—The term “quality of life” includes first responders’ emergency response time, the environment, noise levels, and other factors as determined by the Secretary.

(3) **STATE.**—The term “State” includes, except as otherwise specifically provided, a political subdivision of a State, and the District of Columbia.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for use in carrying out this section \$350,000,000 for each of the fiscal years 2006 through 2009.

(Added Pub. L. 109–59, title IX, §9002(a)(1), Aug. 10, 2005, 119 Stat. 1919.)

#### REGULATIONS

Pub. L. 109–59, title IX, §9002(b), Aug. 10, 2005, 119 Stat. 1921, provided that:

“(1) **TEMPORARY REGULATIONS.**—Not later than April 1, 2006, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

“(2) **FINAL REGULATIONS.**—Not later than October 1, 2006, the Secretary shall issue final regulations implementing the program.”

#### § 20155. Tank cars

(a) **STANDARDS.**—The Federal Railroad Administration shall—

(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this section; and

(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this section.

(b) **OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.**—Within 1 year after the date of enactment of this section the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall transmit a report, including recommendations for reducing any risk of catastrophic fracture and separation of such cars, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 109-59, title IX, §9005(b)(1), Aug. 10, 2005, 119 Stat. 1924.)

#### REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

### CHAPTER 203—SAFETY APPLIANCES

| Sec.   |   |
|--------|---|
| 20301. | Definition and nonapplication.                          |
| 20302. | General requirements.                                   |
| 20303. | Moving defective and insecure vehicles needing repairs. |
| 20304. | Assumption of risk by employees.                        |
| 20305. | Inspection of mail cars.                                |
| 20306. | Exemption for technological improvements.               |

#### § 20301. Definition and nonapplication

(a) DEFINITION.—In this chapter, “vehicle” means a car, locomotive, tender, or similar vehicle.

(b) NONAPPLICATION.—This chapter does not apply to the following:

- (1) a train of 4-wheel coal cars.
- (2) a train of 8-wheel standard logging cars if the height of each car from the top of the rail to the center of the coupling is not more than 25 inches.
- (3) a locomotive used in hauling a train referred to in clause (2) of this subsection when the locomotive and cars of the train are used only to transport logs.
- (4) a car, locomotive, or train used on a street railway.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 881; Pub. L. 104-287, §5(52), Oct. 11, 1996, 110 Stat. 3393.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103-272

| Revised Section | Source (U.S. Code)   | Source (Statutes at Large)  |
|-----------------|--|---|
| 20301(a) .....  | 45:8 (“trains, locomotives, tenders, cars, and similar vehicles”). |   |
| 20301(b) .....  | 45:9 (3d sentence).<br>45:6 (1st sentence proviso).                | Mar. 2, 1893, ch. 196, §6 (1st sentence proviso), 27 Stat. 532; restated Apr. 1, 1896, ch. 87, 29 Stat. 65.<br>Mar. 2, 1903, ch. 976, §1 (words after 23d comma), 32 Stat. 943. |
|                 | 45:8 (words after 16th comma).                                     |   |

Subsection (a) is added to avoid repeating the substance of the definition throughout this chapter.

In subsection (b), the words before clause (1) are substituted for “*Provided, That nothing in sections 1 to 7 of this title shall apply to*” in 45:6 because 45:9, 11, and 16 provide that 45:9 and 11-16 apply to the same vehicles and trains as 45:1-7 apply to. In clause (1), the word “coal” is added for clarity because of the decision of the Supreme Court in *Baltimore & Ohio Railway Co. v. Jackson*, 353 U.S. 325, 333 (1957) and the legislative history of 45:6 (proviso). See 24 Cong. Rec. 1477 (1893). The text of 45:6 (words after last comma) is omitted as unnecessary because of the definition of “railroad” in section 20102 of the revised title.

#### PUB. L. 104-287

This amends 49:20301(b) to clarify the restatement of 45:8 by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 881).

#### AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104-287 added par. (4).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

#### § 20302. General requirements

(a) GENERAL.—Except as provided in subsection (c) of this section and section 20303 of this title, a railroad carrier may use or allow to be used on any of its railroad lines—

(1) a vehicle only if it is equipped with—

(A) couplers coupling automatically by impact, and capable of being uncoupled, without the necessity of individuals going between the ends of the vehicles;

(B) secure sill steps and efficient hand brakes; and

(C) secure ladders and running boards when required by the Secretary of Transportation, and, if ladders are required, secure handholds or grab irons on its roof at the top of each ladder;

(2) except as otherwise ordered by the Secretary, a vehicle only if it is equipped with secure grab irons or handholds on its ends and sides for greater security to individuals in coupling and uncoupling vehicles;

(3) a vehicle only if it complies with the standard height of drawbars required by regulations prescribed by the Secretary;

(4) a locomotive only if it is equipped with a power-driving wheel brake and appliances for operating the train-brake system; and

(5) a train only if—

(A) enough of the vehicles in the train are equipped with power or train brakes so that the engineer on the locomotive hauling the train can control the train's speed without the necessity of brake operators using the common hand brakes for that purpose; and

(B) at least 50 percent of the vehicles in the train are equipped with power or train brakes and the engineer is using the power or train brakes on those vehicles and on all other vehicles equipped with them that are associated with those vehicles in the train.

(b) REFUSAL TO RECEIVE VEHICLES NOT PROPERLY EQUIPPED.—A railroad carrier complying with subsection (a)(5)(A) of this section may refuse to receive from a railroad line of a connecting railroad carrier or a shipper a vehicle that is not equipped with power or train brakes that will work and readily interchange with the power or train brakes in use on the vehicles of the complying railroad carrier.

(c) COMBINED VEHICLES LOADING AND HAULING LONG COMMODITIES.—Notwithstanding subsection (a)(1)(B) of this section, when vehicles are combined to load and haul long commodities, only one of the vehicles must have hand brakes during the loading and hauling.

(d) AUTHORITY TO CHANGE REQUIREMENTS.—The Secretary may—

(1) change the number, dimensions, locations, and manner of application prescribed by the Secretary for safety appliances required by subsection (a)(1)(B) and (C) and (2) of this section only for good cause and after providing an opportunity for a full hearing;

(2) amend regulations for installing, inspecting, maintaining, and repairing power and



train brakes only for the purpose of achieving safety; and

(3) increase, after an opportunity for a full hearing, the minimum percentage of vehicles in a train that are required by subsection (a)(5)(B) of this section to be equipped and used with power or train brakes.

(e) SERVICES OF ASSOCIATION OF AMERICAN RAILROADS.—In carrying out subsection (d)(2) and (3) of this section, the Secretary may use the services of the Association of American Railroads.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 881.)

#### HISTORICAL AND REVISION NOTES

| Revised Section  | Source (U.S. Code)  | Source (Statutes at Large)  |
|------------------|---|---|
| 20302(a) (1)(A). | 45:2.   | Mar. 2, 1893, ch. 196, §§1-4, 27 Stat. 531; June 22, 1988, Pub. L. 100-342, §13(1)(A)-(D), 102 Stat. 630.   |
|                  | 45:8 (words before 16th comma).   | Mar. 2, 1903, ch. 976, §1 (words before 23d comma), 32 Stat. 943; June 22, 1988, Pub. L. 100-342, §13(2)(A), 102 Stat. 631.   |
| 20302(a) (1)(B). | 45:11 (words before proviso related to sill steps and hand brakes).   | Apr. 14, 1910, ch. 160, §2, 36 Stat. 298; June 22, 1988, Pub. L. 100-342, §13(3)(A), 102 Stat. 631.   |
| 20302(a) (1)(C). | 45:8 (words before 16th comma),<br>45:11 (words before proviso related to ladders, running boards, grab irons, and hand-holds). |   |
| 20302(a)(2) ..   | 45:4.<br>45:8 (words before 16th comma),<br>49 App.:1655(e)(1)(C).  | Oct. 15, 1966, Pub. L. 89-670, §6(e)(1)(A)-(C), 80 Stat. 939.   |
| 20302(a)(3) ..   | 45:8 (words before 16th comma),<br>45:12 (last sentence).   | Apr. 14, 1910, ch. 160, §3 (1st sentence words before semicolon, proviso, last sentence), 36 Stat. 298; June 22, 1988, Pub. L. 100-342, §13(3)(B), 102 Stat. 631.                 |
| 20302(a)(4) ..   | 49 App.:1655(e)(1)(A).<br>45:1 (related to locomotives).  |   |
| 20302(a) (5)(A). | 45:8 (words before 16th comma).   |   |
| 20302(a) (5)(B). | 45:1 (related to trains).   |   |
|                  | 45:9 (1st sentence words before last semicolon).  | Mar. 2, 1903, ch. 976, §2 (1st sentence), 32 Stat. 943; Apr. 11, 1958, Pub. L. 85-375, §1(b)(1), (2), 72 Stat. 86.  |
|                  | 45:9 (3d sentence).   | Mar. 2, 1903, ch. 976, 32 Stat. 943, §2 (2d-5th sentences); added Apr. 11, 1958, Pub. L. 85-375, §1(b)(3), 72 Stat. 86; June 22, 1988, Pub. L. 100-342, §13(2)(B), 102 Stat. 631. |
| 20302(b) .....   | 45:3.   |   |
|                  | 45:8 (words before 16th comma).   |   |
| 20302(c) .....   | 45:11 (proviso).  |   |
| 20302(d)(1) ..   | 45:12 (1st sentence words before semicolon).  |   |
| 20302(d)(2) ..   | 49 App.:1655(e)(1)(C).  |   |
|                  | 45:9 (2d sentence).   |   |
| 20302(d)(3) ..   | 49 App.:1655(e)(1)(B).  |   |
|                  | 45:9 (1st sentence words after last semicolon).   |   |
| 20302(e) .....   | 49 App.:1655(e)(1)(B).  |   |
|                  | 45:9 (4th sentence).  |   |
|                  | 49 App.:1655(e)(1)(B).  |   |

In subsection (a), before clause (1), the words “Except as provided in subsection (c) of this section and section 20303 of this title” are added to alert the reader to the exceptions restated in subsection (c) and section 20303. The words “use or allow to be used” are substituted for

“haul or permit to be hauled or used” in 45:2 and 11, “use” in 45:4 and 12, “use” and “run” in 45:1, “operated” and “used, hauled, or permitted to be used or hauled” in 45:9, “using . . . running . . . hauling or permitting to be hauled or used” in 45:6, and “used” in 45:8 for consistency in this section and to eliminate unnecessary words. See *United States v. St. Louis Southwestern Ry. Co. of Texas*, 184 F. 28, 32 (5th Cir., 1910); *United States v. Chicago, M. & St. P. Ry. Co.*, 149 F. 486, 488 (D.S.D. Iowa, 1906). The words “That from and after the first day of January, eighteen hundred and ninety-eight”, “That on and after the first day of January, eighteen hundred and ninety-eight”, and “That from and after the first day of July, eighteen hundred and ninety-five” in sections 1, 2, and 4, respectively, of the Act of March 2, 1893 (ch. 196, 27 Stat. 531), are omitted as obsolete. The words “a railroad carrier . . . on any of its railroad lines” are substituted for “any railroad . . . on its line” in 45:1, “any such railroad . . . on its line” in 45:2, “any railroad company” in 45:4, “railroads in the Territories and the District of Columbia . . . used on any railroad, and in the Territories and the District of Columbia” in 45:8, “Whenever, as provided in sections 1 to 7 of this title” and “any railroad” in 45:9, and “any railroad subject to the provisions of sections 11 to 16 of this title . . . on its line” in 45:11 for clarity, for consistency in the revised title, to eliminate unnecessary words, and because of the definition of “railroad carrier” in section 20102 of the revised title. See *Southern Ry. Co. v. United States*, 222 U.S. 20, 26 (1911). In clauses (1)-(3), the word “vehicle” is substituted for “any car” in 45:2, “car” in 45:4, “all trains, locomotives, tenders, cars, and similar vehicles used on . . . all other locomotives, tenders, cars, and similar vehicles used in connection therewith” in 45:8, and “any car subject to the provisions of said sections . . . to wit: All cars” in 45:11, and “any car or vehicle” in 45:12 for clarity, for consistency in the revised title, to eliminate unnecessary words, and because of the definition of “vehicle” in section 20301 of the revised title. In clause (1)(A), a comma is placed after the word “uncoupled” for clarity. See *Johnson v. Southern Pacific Co.*, 196 U.S. 1, 18 (1904). In clause (1)(C), the words “by the Secretary of Transportation” are added for clarity because of 45:12. In clause (3), the words “required by regulations prescribed by the Secretary” are substituted for “the standard now fixed or the standard so prescribed . . . the standard so prescribed by the Secretary” in 45:12 for clarity and to eliminate unnecessary words. The words “Said Secretary is given authority, after hearing, to modify or change, and to prescribe the standard height of drawbars and to fix the time within which such modification or change shall become effective and obligatory” are omitted as surplus because of 49:322(a). The words “and prior to the time so fixed . . . and after the time so fixed” are omitted as surplus. In clause (4), the word “locomotive” is substituted for “any locomotive engine” in 45:1 and “all trains, locomotives, tenders, cars, and similar vehicles used on . . . all other locomotives, tenders, cars, and similar vehicles used in connection therewith” in 45:8 for clarity and to eliminate unnecessary words. In clause (5)(B), the words “the engineer is using the power or train brakes on those vehicles and on all other vehicles equipped with them that are associated with those vehicles in the train” are substituted for “their brakes used and operated by the engineer of the locomotive drawing such train; and all power-braked cars in such train which are associated together with said 50 per centum shall have their brakes so used and operated” and “all . . . locomotives, tenders, cars, and similar vehicles” for clarity and consistency in this section. The text of section 2 (2d sentence) of the Act of March 2, 1903 (ch. 976, 32 Stat. 943), as added by section (1)(b) of the Power or Train Brakes Safety Appliance Act of 1958 (Public Law 85-375, 72 Stat. 86), is omitted as executed.

In subsection (b), the words “A railroad carrier complying with subsection (a)(5)(A) of this section” are substituted for “any railroad shall have equipped a sufficient number of its cars so as to comply with the pro-

visions of section 1 of this title” in 45:3 and “The provisions and requirements of sections 1 to 7 of this title shall be held to apply to railroads in the Territories and the District of Columbia” in 45:8 for clarity, for consistency in this section, and because of the definition of “railroad carrier” in section 20102 of the revised title. The words “a vehicle that is not equipped with power or train brakes that will work and readily interchange with the power or train brakes in use on the vehicles of the complying railroad carrier” are substituted for “any cars not equipped sufficiently, in accordance with said section, with such power or train brakes as will work and readily interchange with the brakes in use on its own cars, as required by sections 1 to 7 of this title” in 45:3 for clarity and to eliminate unnecessary words.

In subsection (c), the words “Notwithstanding subsection (a)(1)(B) of this section” are added for clarity.

In subsection (d)(1), the words “change . . . only for . . . and after” are substituted for “shall remain as the standards of equipment to be used on all cars subject to the provisions of sections 11 to 16 of this title, unless changed by an order of said Secretary of Transportation to be made after . . . and for” for clarity and to eliminate unnecessary words. The text of section 3 (proviso) of the Act of April 14, 1910 (ch. 160, 36 Stat. 298), is omitted as obsolete.

In subsection (d)(2), the text of 45:9 (2d sentence words before proviso) is omitted as executed.

In subsection (d)(3), the words “to more fully carry into effect the objects of said sections” and “from time to time” are omitted as surplus. The words “an opportunity for” are added for clarity and consistency in the revised title and with other titles of the Code. The words “equipped and used” are substituted for “operated” for consistency in this section.

In subsection (e), the words “and may avail himself of the advice and assistance of any department, commission, or board of the United States Government, and of State governments” are omitted as unnecessary because of 49:301(6) and (7) and 322(c). The words “but no official or employee of the United States shall receive any additional compensation for such service except as now permitted by law” are omitted as surplus because of 5:5533.

### § 20303. Moving defective and insecure vehicles needing repairs

(a) GENERAL.—A vehicle that is equipped in compliance with this chapter whose equipment becomes defective or insecure nevertheless may be moved when necessary to make repairs, without a penalty being imposed under section 21302 of this title, from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made—

(1) on the railroad line on which the defect or insecurity was discovered; or

(2) at the option of a connecting railroad carrier, on the railroad line of the connecting carrier, if not farther than the place of repair described in clause (1) of this subsection.

(b) USE OF CHAINS INSTEAD OF DRAWBARS.—A vehicle in a revenue train or in association with commercially-used vehicles may be moved under this section with chains instead of drawbars only when the vehicle contains livestock or perishable freight.

(c) LIABILITY.—The movement of a vehicle under this section is at the risk only of the railroad carrier doing the moving. This section does not relieve a carrier from liability in a proceeding to recover damages for death or injury of a railroad employee arising from the movement of

a vehicle with equipment that is defective, insecure, or not maintained in compliance with this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 882.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                                | <i>Source (Statutes at Large)</i>   |
|------------------------|--|---|
| 20303(a) .....         | 45:13 (2d sentence proviso words before 1st semi-colon). | Apr. 14, 1910, ch. 160, §4 (2d sentence proviso), 36 Stat. 299; Jan. 14, 1983, Pub. L. 97–468, §704, 96 Stat. 2580. |
| 20303(b) .....         | 45:13 (2d sentence proviso words after last semi-colon). |   |
| 20303(c) .....         | 45:13 (2d sentence proviso words between semi-colons).   |   |

In subsections (a) and (b), the word “moved” is substituted for “hauled” and “hauling” for consistency in this section.

In subsection (a), before clause (1), the words “A vehicle that is equipped in compliance with this chapter” are substituted for “where any car shall have been properly equipped, as provided in sections 1 to 16 of this title” to eliminate unnecessary words. The words “while such car was being used by such carrier upon its line of railroad” are omitted as surplus since this chapter only applies in the case of vehicles used by railroad carriers on their railroad lines. The word “nevertheless” is added for clarity. The words “when necessary to make repairs” are substituted for “if any such movement is necessary to make such repairs and such repairs cannot be made except at any such repair point” to eliminate unnecessary words. The words “without a penalty being imposed under section 21302 of this title” are substituted for “without liability for the penalties imposed by this section or section 6 of this title” because of the restatement.

In subsection (b), the words “A vehicle . . . may be moved under this section . . . only when” are substituted for “and nothing in this proviso shall be construed to permit the hauling of defective cars . . . unless” for clarity and to eliminate unnecessary words.

In subsection (c), the word “hauling” is omitted for consistency in this section. The word “proceeding” is substituted for “remedial action” for consistency in the revised title and to ensure that administrative, as well as court proceedings, are included. The words “to recover damages” are added for clarity. The words “arising from” are substituted for “caused . . . by reason of or in connection with” to eliminate unnecessary words.

### § 20304. Assumption of risk by employees

An employee of a railroad carrier injured by a vehicle or train used in violation of section 20302(a)(1)(A), (2), (4), or (5)(A) of this title does not assume the risk of injury resulting from the violation, even if the employee continues to be employed by the carrier after learning of the violation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>       | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------------|---|
| 20304 .....            | 45:7.                           | Mar. 2, 1893, ch. 196, §8, 27 Stat. 532; June 22, 1988, Pub. L. 100–342, §13(1)(H), 102 Stat. 631.                          |
|                        | 45:8 (words before 16th comma). | Mar. 2, 1903, ch. 976, §1 (words before 23d comma), 32 Stat. 943; June 22, 1988, Pub. L. 100–342, §13(2)(A), 102 Stat. 631. |

The words “after learning of the violation” are substituted for “after the unlawful use of such locomotive, car, or train had been brought to his knowledge” in 45:7 for clarity.

### § 20305. Inspection of mail cars

The Secretary of Transportation shall inspect the construction, adaptability, design, and condition of mail cars used on railroads in the United States. The Secretary shall make a report on the inspection and submit a copy of the report to the United States Postal Service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>  |
|------------------------|-----------------------------|--|
| 20305 .....            | 45:37.                      | May 27, 1908, ch. 200, §1 (6th par. last sentence under heading “Interstate Commerce Commission”), 35 Stat. 325.<br>Mar. 4, 1909, ch. 299, §1 (6th par. last sentence under heading “Interstate Commerce Commission”), 35 Stat. 965.<br>Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(I), (J), 80 Stat. 939. |
|                        | 49 App.:1655(e)(1)(I), (J). |  |

The words “United States Postal Service” are substituted for “Postmaster General” because of sections 4(a) and 5(e) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773, 775).

### § 20306. Exemption for technological improvements

(a) GENERAL.—Subject to subsection (b) of this section, the Secretary of Transportation may exempt from the requirements of this chapter railroad equipment or equipment that will be operated on rails, when those requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.

(b) CONDITIONS FOR EXEMPTION.—The Secretary may grant an exemption under subsection (a) of this section only on the basis of—

- (1) findings based on evidence developed at a hearing; or
- (2) an agreement between national railroad labor representatives and the developer of the new equipment or technology.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>                 |
|------------------------|---------------------------|---|
| 20306 .....            | 45:1013.                  | May 30, 1980, Pub. L. 96–254, §117, 94 Stat. 406. |

In subsection (a), the words “Notwithstanding any other provision of law” and “the mandatory requirements of” are omitted as surplus. The words “existing law” are substituted for “the existing statutes” for consistency in the revised title.

In subsection (b), the words before clause (1) are added because of the restatement. Clause (1) is substituted for “after a hearing and consistent with findings based upon evidence developed therein” to eliminate unnecessary words. In clause (2), the words “an agreement” are substituted for “expressions of agreement” to eliminate unnecessary words.

## CHAPTER 205—SIGNAL SYSTEMS

|        |   |
|--------|---|
| Sec.   | Definition.                                     |
| 20501. | Requirements for installation and use.          |
| 20502. | Amending regulations and changing requirements. |
| 20503. | Inspection, testing, and investigation.         |
| 20504. | Reports of malfunctions and accidents.          |
| 20505. |   |

### § 20501. Definition

In this chapter, “signal system” means a block signal system, an interlocking, automatic train stop, train control, or cab-signal device, or a similar appliance, method, device, or system intended to promote safety in railroad operations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 20501 .....            | (no source).              |                                   |

This section is added to eliminate the unnecessary repetition of the words used in the definition. The definition is derived from 49 App.:26(b)–(f).

### § 20502. Requirements for installation and use

(a) INSTALLATION.—(1) When the Secretary of Transportation decides after an investigation that it is necessary in the public interest, the Secretary may order a railroad carrier to install, on any part of its railroad line, a signal system that complies with requirements of the Secretary. The order must allow the carrier a reasonable time to complete the installation. A carrier may discontinue or materially alter a signal system required under this paragraph only with the approval of the Secretary.

(2) A railroad carrier ordered under paragraph (1) of this subsection to install a signal system on one part of its railroad line may not be held negligent for not installing the system on any part of its line that was not included in the order. If an accident or incident occurs on a part of the line on which the signal system was not required to be installed and was not installed, the use of the system on another part of the line may not be considered in a civil action brought because of the accident or incident.

(b) USE.—A railroad carrier may allow a signal system to be used on its railroad line only when the system, including its controlling and operating appurtenances—

- (1) may be operated safely without unnecessary risk of personal injury; and
- (2) has been inspected and can meet any test prescribed under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 883.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 20502(a) .....         | 49 App.:26(b).            | Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(b); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 835; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, §17(2), (8), 102 Stat. 635, 636. |

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                | <i>Source (Statutes at Large)</i>  |
|------------------------|--|--|
| 20502(b) .....         | 49 App.:1655(e)(6)(A).<br>49 App.:26(e). | Oct. 15, 1966, Pub. L. 89-670, § 6(e)(6)(A), 80 Stat. 939.<br>Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(e); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100-342, § 17(5), 102 Stat. 636. |

In this section, the words “signal system” are substituted for “block signal system, interlocking, automatic train stop, train control, and/or cab-signal devices, and/or other similar appliances, methods, and systems intended to promote the safety of railroad operation” and “such systems, devices, appliances, or methods” in 49 App.:26(b) and “any system, device, or appliance covered by this section” and “such apparatus” in 49 App.:26(e) because of the definition of “signal system” in section 20501 of the revised title.

In subsection (a)(1), the words “decides after an investigation that it is necessary in the public interest” are substituted for “after investigation, if found necessary in the public interest” for clarity. The word “specifications” is omitted as included in “requirements”. The words “The order must allow the carrier a reasonable time to complete the installation” are substituted for “such order to be issued and published a reasonable time (as determined by the Secretary) in advance of the date for its fulfillment” to eliminate unnecessary words. The words “a signal system required under this paragraph” are substituted for “That block signal systems, interlocking, automatic train stop, train control, and cab-signal devices in use on August 26, 1937, or such systems or devices hereinafter installed” to eliminate unnecessary or obsolete words and because of the definition of “signal system” in section 20501 of the revised title.

In subsection (a)(2), the words “railroad line” are substituted for “railroad” for consistency in the revised title. The word “civil” is added for consistency in the revised title and with other titles of the United States Code. The words “or incident” are added for consistency in this part.

In subsection (b), before clause (1), the words “may allow . . . only when” are substituted for “It shall be unlawful . . . unless . . . unless” for clarity. In clause (1), the words “in proper condition and” and “in the service to which it is put” are omitted as being covered by the words of the clause. The words “risk of personal injury” are substituted for “peril to life and limb” for clarity. The words “from time to time” are omitted as surplus. In clause (2), the words “prescribed under this chapter” are substituted for “in accordance with the provisions of this section” and “prescribed in the rules and regulations provided for in this section” for consistency and to eliminate unnecessary words.

#### § 20503. Amending regulations and changing requirements

The Secretary of Transportation may amend a regulation or change a requirement applicable to a railroad carrier for installing, maintaining, inspecting, or repairing a signal system under this chapter—

- (1) when the carrier files with the Secretary a request for the amendment or change and the Secretary approves the request; or
- (2) on the Secretary’s own initiative for good cause shown.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 884.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                    | <i>Source (Statutes at Large)</i>  |
|------------------------|--|--|
| 20503 .....            | 49 App.:26(c).<br><br>49 App.:1655(e)(6)(A). | Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(c); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100-342, § 17(3), (8), 102 Stat. 635, 636.<br>Oct. 15, 1966, Pub. L. 89-670, § 6(e)(6)(A), 80 Stat. 939. |

In this section, before clause (1), the text of 49 App.:26(c) (words before 2d proviso) is omitted as executed. The words “The Secretary of Transportation may amend . . . change” are substituted for “and approved by the Secretary of Transportation” and “the Secretary may . . . revise, amend, or modify” for clarity and to eliminate unnecessary words. The words “regulation or . . . a requirement applicable to a railroad carrier for installing, maintaining, inspecting, or repairing a signal system under this chapter” are substituted for “rules, standards, and instructions herein provided for” and “rules, standards, and instructions prescribed by him under this subsection” for clarity, for consistency in the revised title, and because of the restatement. Clause (1) is substituted for “such railroad may from time to time change . . . but such change shall not take effect and the new rules, standards, and instructions be enforced until they shall have been filed with” for clarity and to eliminate unnecessary words. The words “and as revised, amended, or modified they shall be obligatory upon the railroad after a copy thereof shall have been served as above provided” are omitted as being superseded by 5ch. 5, subch. II.

#### § 20504. Inspection, testing, and investigation

(a) SYSTEMS IN USE.—(1) The Secretary of Transportation may—

- (A) inspect and test a signal system used by a railroad carrier; and
- (B) decide whether the system is in safe operating condition.

(2) In carrying out this subsection, the Secretary may employ only an individual who—

- (A) has no interest in a patented article required to be used on or with a signal system; and
- (B) has no financial interest in a railroad carrier or in a concern dealing in railroad supplies.

(b) SYSTEMS SUBMITTED FOR INVESTIGATION AND TESTING.—The Secretary may investigate, test, and report on the use of and need for a signal system, without cost to the United States Government, when the system is submitted in completed shape for investigation and testing.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 884.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                    | <i>Source (Statutes at Large)</i>  |
|------------------------|--|--|
| 20504(a) .....         | 49 App.:26(d).<br><br>49 App.:1655(e)(6)(A). | Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(d); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100-342, § 17(4), (8), 102 Stat. 635, 636.<br>Oct. 15, 1966, Pub. L. 89-670, § 6(e)(1)(I), (6)(A), 80 Stat. 939. |

## HISTORICAL AND REVISION NOTES—CONTINUED

| Revised Section | Source (U.S. Code)     | Source (Statutes at Large)  |
|-----------------|------------------------|---|
| 20504(b) .....  | 45:36.                 | May 27, 1908, ch. 200, § 1 (1st complete par. on p. 325), 35 Stat. 325. |
|                 | 49 App.:1655(e)(1)(I). |   |

In subsection (a)(1)(B), the words “safe operating condition” are substituted for “proper condition to operate and provide adequate safety” to eliminate unnecessary words.

In subsection (a)(2), before clause (A), the text of 49:26(d) (2d sentence) is omitted because of 5:3101. The text of 49:26(d) (3d sentence) is omitted because of 5:ch. 33. The words “In carrying out this subsection, the Secretary may employ” are substituted for “shall be used for such purpose” for clarity. In clause (A), the words “either directly or indirectly” are omitted as surplus.

In subsection (b), the word “experimentally” is omitted as surplus. The words “signal system” are substituted for “any appliances or systems intended to promote the safety of railway operation” because of the definition of “signal system” in section 20501 of the revised title. The text of 45:36 (last sentence) is omitted because of 49:323.

**§ 20505. Reports of malfunctions and accidents**

In the way and to the extent required by the Secretary of Transportation, a railroad carrier shall report to the Secretary a failure of a signal system to function as intended. If the failure results in an accident or incident causing injury to an individual or property that is required to be reported under regulations prescribed by the Secretary, the carrier owning or maintaining the signal system shall report to the Secretary immediately in writing the fact of the accident or incident.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 884.)

## HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                           | Source (Statutes at Large)  |
|-----------------|--|---|
| 20505 .....     | 49 App.:26(f) (words before last semicolon). | Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(f) (words before last semicolon); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100–342, § 17(6), (8), 102 Stat. 636. |
|                 | 49 App.:1655(e)(6)(A).                       | Oct. 15, 1966, Pub. L. 89–670, § 6(e)(6)(A), 80 Stat. 939.  |

The words “signal system” are substituted for “such systems, devices, or appliances” because of the definition of “signal system” in section 20501 of the revised title. The word “indicate” is omitted as being included in “function”. The words “or incident” are added for consistency in this part. The word “individual” is substituted for “person”, and the word “immediately” is substituted for “forthwith”, for consistency in the revised title and with other titles of the United States Code.

**CHAPTER 207—LOCOMOTIVES**

|        |  |
|--------|--|
| Sec.   |  |
| 20701. | Requirements for use.                                    |
| 20702. | Inspections, repairs, and inspection and repair reports. |
| 20703. | Accident reports and investigations.                     |

**§ 20701. Requirements for use**

A railroad carrier may use or allow to be used a locomotive or tender on its railroad line only

when the locomotive or tender and its parts and appurtenances—

(1) are in proper condition and safe to operate without unnecessary danger of personal injury;

(2) have been inspected as required under this chapter and regulations prescribed by the Secretary of Transportation under this chapter; and

(3) can withstand every test prescribed by the Secretary under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 885.)

## HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                     | Source (Statutes at Large)   |
|-----------------|--|--|
| 20701 .....     | 45:23.                                 | Feb. 17, 1911, ch. 103, § 2, 36 Stat. 913; Mar. 4, 1915, ch. 169, § 1, 38 Stat. 1192; restated June 7, 1924, ch. 355, § 2, 43 Stat. 659; June 22, 1988, Pub. L. 100–342, § 14(2), 102 Stat. 632. |
|                 | 45:30 (1st sentence related to 45:23). | Mar. 4, 1915, ch. 169, § 2 (1st sentence related to § 2 of Act of Feb. 17, 1911), 38 Stat. 1192; Apr. 22, 1940, ch. 124, § 2, 54 Stat. 148.  |
|                 | 49 App.:1655(e)(1)(E), (F).            | Oct. 15, 1966, Pub. L. 89–670, § 6(e)(1)(E), (F), 80 Stat. 939.  |

In this section, before clause (1), the words “locomotive or tender . . . locomotive or tender and its parts and appurtenances” are substituted for “locomotive . . . locomotive, its boiler, tender, and all parts and appurtenances thereof” in 45:23 and “the provision of sections 22 to 29 . . . of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances” in 45:30 for clarity and because of the restatement. In clause (1), the words “in the service to which the same are put” and “in the active service of such railroad” in 45:23 are omitted as surplus. The words “danger of personal injury” are substituted for “peril to life or limb” for clarity and consistency in this part. In clause (2), the words “from time to time” are omitted as surplus. The words “as required under this chapter and regulations prescribed by the Secretary of Transportation under this chapter” are substituted for “in accordance with the provisions of sections 22 to 29 and 31 to 34 of this title” for clarity and consistency. In clause (3), the words “prescribed by the Secretary under this chapter” are substituted for “prescribed in the rules and regulations hereinafter provided for” for clarity and because of the restatement.

**§ 20702. Inspections, repairs, and inspection and repair reports**

(a) GENERAL.—The Secretary of Transportation shall—

(1) become familiar, so far as practicable, with the condition of every locomotive and tender and its parts and appurtenances;

(2) inspect every locomotive and tender and its parts and appurtenances as necessary to carry out this chapter, but not necessarily at stated times or at regular intervals; and

(3) ensure that every railroad carrier makes inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary and repairs every defect that is disclosed by an inspection before a defective locomotive, tender, part, or appurtenance is used again.

(b) NONCOMPLYING LOCOMOTIVES, TENDERS, AND PARTS.—(1) When the Secretary finds that a lo-

comotive, tender, or locomotive or tender part or appurtenance owned or operated by a railroad carrier does not comply with this chapter or a regulation prescribed under this chapter, the Secretary shall give the carrier written notice describing any defect resulting in noncompliance. Not later than 5 days after receiving the notice of noncompliance, the carrier may submit a written request for a reinspection. On receiving the request, the Secretary shall provide for the reinspection by an officer or employee of the Department of Transportation who did not make the original inspection. The reinspection shall be made not later than 15 days after the date the Secretary gives the notice of noncompliance.

(2) Immediately after the reinspection is completed, the Secretary shall give written notice to the railroad carrier stating whether the locomotive, tender, part, or appurtenance is in compliance. If the original finding of noncompliance is sustained, the carrier has 30 days after receipt of the notice to file an appeal with the Secretary. If the carrier files an appeal, the Secretary, after providing an opportunity for a proceeding, may revise or set aside the finding of noncompliance.

(3) A locomotive, tender, part, or appurtenance found not in compliance under this subsection may be used only after it is—

(A) repaired to comply with this chapter and regulations prescribed under this chapter; or

(B) found on reinspection or appeal to be in compliance.

(c) **REPORTS.**—A railroad carrier shall make and keep, in the way the Secretary prescribes by regulation, a report of every—

(1) inspection made under regulations prescribed by the Secretary; and

(2) repair made of a defect disclosed by such an inspection.

(d) **CHANGES IN INSPECTION PROCEDURES.**—A railroad carrier may change a rule or instruction of the carrier governing the inspection by the carrier of the locomotives and tenders and locomotive and tender parts and appurtenances of the carrier when the Secretary approves a request filed by the carrier to make the change.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 885.)

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>   |
|------------------------|---|---|
| 20702(c) .....         | 45:30 (1st sentence related to 45:29)<br>49 App.:1655(e) (1)(E)–(G).<br>45:29 (4th, 5th sentences).                 | Feb. 17, 1911, ch. 103, §5, 36 Stat. 914; Apr. 22, 1940, ch. 124, §1(1)–(3) (related to §5 of Act of Feb. 17, 1911), 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; June 22, 1988, Pub. L. 100–342, §14(4), 102 Stat. 633. |
| 20702(d) .....         | 45:28.<br><br><br><br><br><br><br><br><br><br>45:30 (1st sentence related to 45:28).<br>49 App.:1655(e) (1)(E)–(G). |   |

In this section, the words “locomotive and tender and its parts and appurtenances” and “locomotive, tender, or locomotive or tender part or appurtenance” are substituted for “locomotive boiler” and “boiler or boilers or apparatus pertaining thereto” in 45:29 and “the provision of sections 22 to 29 . . . of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances” in 45:30 for clarity and because of the restatement.

In subsection (a), before clause (1), the word “shall” is substituted for “It shall be the duty of”, “shall”, and “His first duty shall be” in 45:29 and “shall . . . and shall have the same powers and duties with respect to all the parts and appurtenances of the locomotive and tender that they have with respect to the boiler of a locomotive and the appurtenances thereof” in 45:30 for clarity and to eliminate unnecessary words. In clause (1), the words “ordinarily housed or repaired in his district, and if any locomotive is ordinarily housed or repaired in two or more districts, then the director of locomotive inspection or an assistant shall make such division between inspectors as will avoid the necessity for duplication of work” in 45:29 are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G). In clause (2), the words “inspect . . . as necessary to carry out” are substituted for “make such personal inspection . . . from time to time as may be necessary to fully carry out the provisions of” in 45:29 and “inspect” in 45:30 to eliminate unnecessary words. The words “under his care” and “as may be consistent with his other duties” in 45:29 are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G). The words “but not necessarily” are substituted for “but he shall not be required to make such inspections” in 45:29 to eliminate unnecessary words. In clause (3), the words “inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary” are substituted for “inspections in accordance with the rules and regulations established or approved by the Secretary of Transportation” in 45:29 and “the provision of sections 22 to 29 . . . of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances” in 45:30 for clarity and because of the restatement. The words “a defective locomotive, tender, part, or appurtenance is used again” are substituted for “the boiler or boilers or appurtenances pertaining thereto are again put in service” in 45:29 for consistency in this subsection. The text of 45:30 (last sentence) is omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320), 49 App.:1655(e)(1)(E)–(G), and 5 ch. 33.

In subsection (b), the word “reinspection” is substituted for “reexamination” for consistency in this chapter.

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                             | <i>Source (Statutes at Large)</i>  |
|------------------------|---|--|
| 20702(a) .....         | 45:29 (1st–3d sentences).                             | Feb. 17, 1911, ch. 103, §6, 36 Stat. 915; Apr. 22, 1940, ch. 124, §1(1)–(3) (related to §6 of Act of Feb. 17, 1911), 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; Oct. 10, 1980, Pub. L. 96–423, §13, 94 Stat. 1816; June 22, 1988, Pub. L. 100–342, §14(5), 102 Stat. 633. |
|                        | 45:30 (1st sentence related to 45:29, last sentence). | Mar. 4, 1915, ch. 169, §2 (1st sentence related to §§5, 6 of Act of Feb. 17, 1911, last sentence), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320.  |
|                        | 49 App.:1655(e) (1)(E)–(G).                           | Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(E)–(G), 80 Stat. 939.  |
| 20702(b) .....         | 45:29 (6th, last sentences).                          |  |

In subsection (b)(1), the words “in the performance of his duty” in 45:29 are omitted as surplus. The words “owned or operated by a railroad carrier” are added for clarity and because of the words “owning or operating such locomotive” in 45:29 (last sentence). The words “does not comply with this chapter or a regulation prescribed under this chapter” are substituted for “not conforming to the requirements of the law or the rules and regulations established and approved as herein-before stated” in 45:29 to eliminate unnecessary words and because of the restatement. The words “describing any defect resulting in noncompliance” are substituted for “that the locomotive is not in serviceable condition . . . because of defects set out and described in said notice” for consistency in this section and to eliminate unnecessary words. The words “written request for a reinspection” are substituted for “appeal . . . by telegraph or by letter to have said boiler reexamined” for clarity and to eliminate unnecessary words. The words “an officer or employee of the Department of Transportation” are substituted for “one of the assistant directors of locomotive inspection or any district inspector” because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G).

In subsection (b)(2), the words “Immediately after the reinspection is completed” are substituted for “upon such reexamination the boiler is found in serviceable condition . . . immediately” and “but if the reexamination of said boiler sustains the decision of the district inspector . . . at once” in 45:29 to eliminate unnecessary words. The words “give written notice . . . stating whether the locomotive, tender, part, or appurtenance is in compliance” are substituted for “in writing” and “that the appeal from the decision of the inspector is dismissed” for clarity and consistency in this subsection. The words “after providing an opportunity for a proceeding” are substituted for “after hearing” as being more appropriate and for consistency in the revised title and with other titles of the United States Code. The words “may revise or set aside the finding of noncompliance” are substituted for “shall have power to revise, modify, or set aside such action . . . and declare that said locomotive is in serviceable condition and authorize the same to be operated” to eliminate unnecessary words.

Subsection (b)(3) is substituted for “and thereafter such boiler shall not be used until in serviceable condition” and “whereupon such boiler may be put into service without further delay” in 45:29 and the text of 45:29 (last proviso) for clarity and to eliminate unnecessary words.

In subsection (c), before clause (1), the words “make and keep” are substituted for “keep” for clarity.

Subsection (d) is substituted for the text of 45:28 (1st sentence last proviso) and 30 (1st sentence related to 45:28) for clarity and because of the restatement.

### § 20703. Accident reports and investigations

(a) ACCIDENT REPORTS AND SCENE PRESERVATION.—When the failure of a locomotive, tender, or locomotive or tender part or appurtenance results in an accident or incident causing serious personal injury or death, the railroad carrier owning or operating the locomotive or tender—

(1) immediately shall file with the Secretary of Transportation a written statement of the fact of the accident or incident; and

(2) when the locomotive is disabled to the extent it cannot be operated under its own power, shall preserve intact all parts affected by the accident or incident, if possible without interfering with traffic, until an investigation of the accident or incident is completed.

(b) INVESTIGATIONS.—The Secretary shall—

(1) investigate each accident and incident reported under subsection (a) of this section;

(2) inspect each part affected by the accident or incident; and

(3) make a complete and detailed report on the cause of the accident or incident.

(c) PUBLICATION AND USE OF INVESTIGATION REPORTS.—When the Secretary considers publication to be in the public interest, the Secretary may publish a report of an investigation made under this section, stating the cause of the accident or incident and making appropriate recommendations. No part of a report may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 886.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                     | Source (Statutes at Large)  |
|-----------------|--|---|
| 20703(a) .....  | 45:30 (1st sentence related to 45:32). | Mar. 4, 1915, ch. 169, §2 (1st sentence related to §8 of Act of Feb. 17, 1911), 38 Stat. 1192; Apr. 22, 1940, ch. 124, §2, 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320.  |
|                 | 45:32 (1st, 3d sentences).             | Feb. 17, 1911, ch. 103, §8, 36 Stat. 916; Apr. 22, 1940, ch. 124, §1(1)–(3) (related to §8 of Act of Feb. 17, 1911), 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; June 22, 1988, Pub. L. 100–342, §14(6), 102 Stat. 633. |
|                 | 49 App.:1655(e)(1)(E)–(G).             | Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(E)–(G), 80 Stat. 939.   |
| 20703(b) .....  | 45:32 (2d, last sentences).            |   |
| 20703(c) .....  | 45:33.<br>49 App.:1655(e)(1)(E)–(G).   |   |

In this section, the words “or incident” and “and incident” are added for consistency in this part.

In subsection (a), before clause (1), the words “locomotive, tender, or locomotive or tender part or appurtenance . . . the locomotive or tender” are substituted for “locomotive boiler or its appurtenances . . . said locomotive” in 45:32 and the text of 45:30 (1st sentence related to 45:32) for clarity and because of the restatement. The word “personal” is substituted for “to one or more persons” to eliminate unnecessary words. In clause (1), the word “immediately” is substituted for “forthwith” for consistency in this chapter. In clause (2), the words “operated under its own power” are substituted for “cannot be run by its own steam” for clarity. The words “hindrance or” are omitted as being included in “interfering”. The word “investigation” is substituted for “inspection” for consistency in this section.

In subsection (c), the words “at any time call upon the director of locomotive inspection for a report of any accident embraced in section 32 of this title, and upon the receipt of said report” are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)–(G). The text of 45:33 (2d sentence) is omitted as surplus. The words “civil action” are substituted for “suit or action” for consistency in the revised title and with other titles of the United States Code. The words “resulting from” are substituted for “growing out of” for clarity. The words “or investigation” are omitted as unnecessary because of the restatement.

### CHAPTER 209—ACCIDENTS AND INCIDENTS

|        |                 |
|--------|-----------------|
| Sec.   |                 |
| 20901. | Reports.        |
| 20902. | Investigations. |

Sec.

20903. Reports not evidence in civil actions for damages.

### § 20901. Reports

(a) GENERAL REQUIREMENTS.—Not later than 30 days after the end of each month, a railroad carrier shall file a report with the Secretary of Transportation on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the month. The report shall be under oath and shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.

(b) MONETARY THRESHOLD FOR REPORTING.—(1) In establishing or changing a monetary threshold for the reporting of a railroad accident or incident, the Secretary shall base damage cost calculations only on publicly available information obtained from—

(A) the Bureau of Labor Statistics; or

(B) another department, agency, or instrumentality of the United States Government if the information has been collected through objective, statistically sound survey methods or has been previously subject to a public notice and comment process in a proceeding of a Government department, agency, or instrumentality.

(2) If information is not available as provided in paragraph (1)(A) or (B) of this subsection, the Secretary may use any other source to obtain the information. However, use of the information shall be subject to public notice and an opportunity for written comment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 886.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                 | <i>Source (Statutes at Large)</i>   |
|------------------------|---|---|
| 20901(a) .....         | 45:38 (1st sentence).                     | May 6, 1910, ch. 208, §1 (1st sentence), 36 Stat. 350; restated Sept. 13, 1960, Pub. L. 86–762, §1, 74 Stat. 903; June 22, 1988, Pub. L. 100–342, §15(1)(A), (B), 102 Stat. 633.        |
|                        | 45:39 (related to time of filing report). | May 6, 1910, ch. 208, §2 (related to time of filing report), 36 Stat. 351; Jan. 3, 1975, Pub. L. 93–633, §204(b), 88 Stat. 2166; June 22, 1988, Pub. L. 100–342, §15(2), 102 Stat. 634. |
|                        | 45:43a.                                   | June 22, 1988, Pub. L. 100–342, §24, 102 Stat. 639.   |
|                        | 49 App.:1655(e)(1)(K).                    | Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(K), 80 Stat. 939.   |
| 20901(b) .....         | 45:38 (note).                             | Sept. 3, 1992, Pub. L. 102–365, §15, 106 Stat. 981.   |

In this section, the words “accident” and “incident” are used, and the words “collision” and “derailment” are omitted, for consistency in this part. The words “the general manager, superintendent, or other proper officer of” in 45:38 are omitted as surplus because any duty of a railroad carrier must necessarily be carried out through its proper officers and agents. The text of 45:38 (1st sentence proviso) is omitted as executed.

In subsection (b), the words “or incident” are added for consistency. The text of section 15(c) of the Rail Safety Enforcement and Review Act (Pub. L. 102–365, 106 Stat. 981) is omitted as executed.

### § 20902. Investigations

(a) GENERAL AUTHORITY.—The Secretary of Transportation, or an impartial investigator authorized by the Secretary, may investigate—

(1) an accident or incident resulting in serious injury to an individual or to railroad property, occurring on the railroad line of a railroad carrier; and

(2) an accident or incident reported under section 20505 of this title.

(b) OTHER DUTIES AND POWERS.—In carrying out an investigation, the Secretary or authorized investigator may subpoena witnesses, require the production of records, exhibits, and other evidence, administer oaths, and take testimony. If the accident or incident is investigated by a commission of the State in which it occurred, the Secretary, if convenient, shall carry out the investigation at the same time as, and in coordination with, the commission's investigation. The railroad carrier on whose railroad line the accident or incident occurred shall provide reasonable facilities to the Secretary for the investigation.

(c) REPORTS.—When in the public interest, the Secretary shall make a report of the investigation, stating the cause of the accident or incident and making recommendations the Secretary considers appropriate. The Secretary shall publish the report in a way the Secretary considers appropriate.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 887.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>  |
|------------------------|---|--|
| 20902(a) .....         | 45:40 (1st sentence, 2d sentence words between 1st and 2d commas).<br>49 App.:26(f) (words after last semicolon). | May 6, 1910, ch. 208, §3, 36 Stat. 351; June 22, 1988, Pub. L. 100–342, §15(3), 102 Stat. 634.<br>Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(f) (words after last semicolon); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919. |
|                        | 49 App.:1655(e)(1)(K).  | Oct. 15, 1966, Pub. L. 89–670, §6(e)(1)(K), 80 Stat. 939.  |
| 20902(b) .....         | 45:40 (2d sentence less words between 1st and 2d commas).   |  |
| 20902(c) .....         | 45:40 (3d, last sentences).   |  |

In this section, the words “accident” and “incident” are used, and the words “collision” and “derailment” are omitted, for consistency in this part.

Subsection (a)(2) is substituted for the text of 49 App.:26(f) (words after last semicolon) for clarity.

In subsection (b), the words “In carrying out an investigation” are substituted for “shall have authority to investigate such collisions, derailments, or other accidents aforesaid, and all the attending facts, conditions, and circumstances, and for that purpose” to eliminate unnecessary words. The words “books, papers, orders, memoranda” are omitted as being included in “papers”. The words “in coordination with” are substituted for “in connection with” for clarity. The words “The railroad carrier on whose railroad line the accident or incident occurred” are added for clarity.

In subsection (c), the words “When in the public interest” are substituted for “when he deems it to the public interest” to eliminate unnecessary words.



### § 20903. Reports not evidence in civil actions for damages

No part of an accident or incident report filed by a railroad carrier under section 20901 of this title or made by the Secretary of Transportation under section 20902 of this title may be used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 887.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>       |
|------------------------|---------------------------|---|
| 20903 .....            | 45:41.                    | May 6, 1910, ch. 208, §4, 36 Stat. 351. |

The words “civil action” are substituted for “suit or action” for consistency in the revised title and with other titles of the United States Code.

## CHAPTER 211—HOURS OF SERVICE

|        |   |
|--------|---|
| Sec.   |   |
| 21101. | Definitions.  |
| 21102. | Nonapplication and exemption.                               |
| 21103. | Limitations on duty hours of train employees.               |
| 21104. | Limitations on duty hours of signal employees.              |
| 21105. | Limitations on duty hours of dispatching service employees. |
| 21106. | Limitations on employee sleeping quarters.                  |
| 21107. | Maximum duty hours and subjects of collective bargaining.   |
| 21108. | Pilot projects.   |

#### AMENDMENTS

1994—Pub. L. 103–440, title II, §203(b), Nov. 2, 1994, 108 Stat. 4620, added item 21108.

### § 21101. Definitions

In this chapter—

(1) “designated terminal” means the home or away-from-home terminal for the assignment of a particular crew.

(2) “dispatching service employee” means an operator, train dispatcher, or other train employee who by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements.

(3) “employee” means a dispatching service employee, a signal employee, or a train employee.

(4) “signal employee” means an individual employed by a railroad carrier who is engaged in installing, repairing, or maintaining signal systems.

(5) “train employee” means an individual engaged in or connected with the movement of a train, including a hostler.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 888.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>  |
|------------------------|-----------------------------|--|
| 21101(1) .....         | 45:61(b)(4) (1st sentence). | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §1(b)(4) (1st sentence); added Nov. 2, 1978, Pub. L. 95–574, §6, 92 Stat. 2461. |
| 21101(2)–(4)           | (no source).                |  |

#### HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 21101(5) .....         | 45:61(b)(2).              | Mar. 4, 1907, ch. 2939, §1(b)(2), 34 Stat. 1415; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 463; July 8, 1976, Pub. L. 94–348, §4(c), 90 Stat. 818. |

Clause (2) is added to avoid the necessity of repeating the substance of the definition every time a “dispatching service employee” is referred to in this chapter. The language in clause (2) is derived from 45:63.

Clause (3) is added to provide a definition of “employee” when the source provisions apply to all types of employees covered by this chapter.

Clause (4) is added to avoid the necessity of repeating the substance of the definition every time a “signal employee” is referred to in this chapter. The language in clause (4) is derived from 45:63a.

In clause (5), the words “train employee” are substituted for “employee” to distinguish the term from the terms “dispatching service employee” and “signal employee”. The word “actually” is omitted as surplus.

### § 21102. Nonapplication and exemption

(a) GENERAL.—This chapter does not apply to a situation involving any of the following:

- (1) a casualty.
- (2) an unavoidable accident.
- (3) an act of God.

(4) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(b) EXEMPTION.—The Secretary of Transportation may exempt a railroad carrier having not more than 15 employees covered by this chapter from the limitations imposed by this chapter. The Secretary may allow the exemption after a full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a carrier to require or allow its employees to be on duty more than a total of 16 hours in a 24-hour period.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 888.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>      | <i>Source (Statutes at Large)</i>  |
|------------------------|--------------------------------|--|
| 21102(a) .....         | 45:63a(d) (related to 45:64a). | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §5); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635. |
|                        | 45:64a(d).                     | Mar. 4, 1907, ch. 2939, §5(d), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100–342, §16(6)(D), 102 Stat. 635.              |
| 21102(b) .....         | 45:63a(d) (related to 45:64a). | Mar. 4, 1907, ch. 2939, §5(e), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91–169, §1, 83 Stat. 464.  |
|                        | 45:64a(e).                     |  |

In subsection (b), the words “with respect to one or more of its employees” are omitted as surplus because the authority to exempt a railroad carrier includes the authority to exempt only some of the employees of the carrier. The words “carrier to require or allow its em-

ployees to be on duty” are substituted for “any railroad described in this section to work its employees” for clarity and consistency in this chapter.

### § 21103. Limitations on duty hours of train employees

(a) GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to remain or go on duty—

(1) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours; or

(2) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a train employee is on or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time the employee is engaged in or connected with the movement of a train is time on duty.

(3) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in or connected with the movement of a train is time on duty.

(4) Time spent in deadhead transportation to a duty assignment is time on duty, but time spent in deadhead transportation from a duty assignment to the place of final release is neither time on duty nor time off duty.

(5) An interim period available for rest at a place other than a designated terminal is time on duty.

(6) An interim period available for less than 4 hours rest at a designated terminal is time on duty.

(7) An interim period available for at least 4 hours rest at a place with suitable facilities for food and lodging is not time on duty when the employee is prevented from getting to the employee’s designated terminal by any of the following:

(A) a casualty.

(B) a track obstruction.

(C) an act of God.

(D) a derailment or major equipment failure resulting from a cause that was unknown and unforeseeable to the railroad carrier or its officer or agent in charge of that employee when that employee left the designated terminal.

(c) EMERGENCIES.—A train employee on the crew of a wreck or relief train may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to the emergency. In this subsection, an emergency ends when the track is cleared and the railroad line is open for traffic.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 888.)

### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>    | <i>Source (Statutes at Large)</i>   |
|------------------------|------------------------------|---|
| 21103(a) .....         | 45:62(a)(1), (2).            | Mar. 4, 1907, ch. 2939, §2(a)(1), (2), 34 Stat. 1416; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 463; July 8, 1976, Pub. L. 94-348, §4(a)(1), (2), 90 Stat. 818; June 22, 1988, Pub. L. 100-342, §16(2), 102 Stat. 634. |
| 21103(b) .....         | 45:61(b)(3).                 | Mar. 4, 1907, ch. 2939, §§1(b)(3), 2(b), 34 Stat. 1415, 1416; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 463.   |
|                        | 45:61(b)(4) (last sentence). | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §1(b)(4) (last sentence); added Nov. 2, 1978, Pub. L. 95-574, §6, 92 Stat. 2461; June 22, 1988, Pub. L. 100-342, §16(1)(C), 102 Stat. 634.   |
| 21103(c) .....         | 45:62(b).<br>45:62(c).       | Mar. 4, 1907, ch. 2939, §2(c), 34 Stat. 1416; Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; restated July 8, 1976, Pub. L. 94-348, §4(b), 90 Stat. 818.  |

In subsection (a), before clause (1), the words “Except as provided in subsection (c) of this section” are added to alert the reader to the exception restated in subsection (c). The words “train employee” are substituted for “employee” because of the definition of “train employee” in section 21101 of the revised title. In clause (2), the words “12 consecutive hours” are substituted for “continuously . . . fourteen hours” and “except that, effective upon the expiration of the two-year period beginning on the effective date of this paragraph, such fourteen-hour duty period shall be reduced to twelve hours” because the 2-year period has ended.

In subsection (b), the words before paragraph (1) are added as related to 45:61(b)(3) and (4) (last sentence) and substituted for “In determining, for the purposes of subsection (a), the number of hours an employee is on duty” in 45:62(b) for clarity. In paragraphs (2) and (3), the word “actually” is omitted as surplus. In paragraph (4), the words “neither time on duty nor time off duty” are substituted for “time off duty” for clarity and consistency with the source provisions restated in 21104(b)(3) and (4) of the revised title. In paragraph (7), before clause (A), the words “between designated terminals” are omitted as surplus. The text of 45:61(b)(3)(E) is omitted as surplus because of the restatement.

In subsection (c), the words “A train employee on” are added for consistency in this section. The word “actual” is omitted as surplus.

### § 21104. Limitations on duty hours of signal employees

(a) GENERAL.—(1) In paragraph (2)(C) of this subsection, “24-hour period” means the period beginning when a signal employee reports for duty immediately after 8 consecutive hours off duty or, when required under paragraph (2)(B) of this subsection, after 10 consecutive hours off duty.

(2) Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a signal employee to remain or go on duty—

(A) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours;

(B) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty; or

(C) after that employee has been on duty a total of 12 hours during a 24-hour period, or

after the end of that 24-hour period, whichever occurs first, until that employee has had at least 8 consecutive hours off duty.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a signal employee is on duty or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in installing, repairing, or maintaining signal systems is time on duty.

(3) Time spent returning from a trouble call, whether the employee goes directly to the employee's residence or by way of the employee's headquarters, is neither time on duty nor time off duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty.

(4) If, at the end of scheduled duty hours, an employee has not completed the trip from the final outlying worksite of the duty period to the employee's headquarters or directly to the employee's residence, the time after the scheduled duty hours necessarily spent in completing the trip to the residence or headquarters is neither time on duty nor time off duty.

(5) If an employee is released from duty at an outlying worksite before the end of the employee's scheduled duty hours to comply with this section, the time necessary for the trip from the worksite to the employee's headquarters or directly to the employee's residence is neither time on duty nor time off duty.

(6) Time spent in transportation on an on-track vehicle, including time referred to in paragraphs (3)–(5) of this subsection, is time on duty.

(7) A regularly scheduled meal period or another release period of at least 30 minutes but not more than one hour is time off duty and does not break the continuity of service of the employee under this section, but a release period of more than one hour is time off duty and does break the continuity of service.

(c) EMERGENCIES.—A signal employee may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of that employee is related to the emergency. In this subsection, an emergency ends when the signal system is restored to service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 889.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 21104(a) .....         | 45:63a(a) (1st sentence). | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(a) (1st sentence), (b); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §16(4), 102 Stat. 635. |

#### HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>      | <i>Source (Statutes at Large)</i>  |
|------------------------|--------------------------------|--|
|                        | 45:63a(a) (2d-last sentences). | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(a) (2d-last sentences); added Nov. 2, 1978, Pub. L. 95–574, §4(a), 92 Stat. 2459.   |
| 21104(b) .....         | 45:63a(b).<br>45:63a(c).       | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(c); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; restated Nov. 2, 1978, Pub. L. 95–574, §4(b), 92 Stat. 2460. |
| 21104(c) .....         | 45:63a(f).                     | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(f); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819.  |

In this section, the words “signal employee” are substituted for “an individual employed by the railroad who is engaged in installing, repairing or maintaining signal systems” and “an individual described in paragraph (1)” in 45:63a(a), “individual” in 45:63a(b) and (c), and “individual engaged in installing, repairing, or maintaining signal systems” in 45:63a(f) because of the definition of “signal employee” in section 21101 of the revised title.

Subsection (a)(1) is substituted for 45:63a(a) (last sentence) for clarity and because of the restatement.

In subsection (a)(2), before clause (A), the words “Except as provided in subsection (c) of this section” are added to alert the reader to the exception restated in subsection (c). The text of 45:63a(a) (2d sentence) is omitted as surplus.

In subsection (b), the words before paragraph (1) are added as related to 45:63a(c) and substituted for “In determining for the purposes of subsection (a) of this section the number of hours an individual is on duty” for clarity. In paragraph (2), the word “actually” is omitted as surplus.

In subsection (c), the word “actual” is omitted as surplus.

#### § 21105. Limitations on duty hours of dispatching service employees

(a) APPLICATION.—This section applies, rather than section 21103 or 21104 of this title, to a train employee or signal employee during any period of time the employee is performing duties of a dispatching service employee.

(b) GENERAL.—Except as provided in subsection (d) of this section, a dispatching service employee may not be required or allowed to remain or go on duty for more than—

(1) a total of 9 hours during a 24-hour period in a tower, office, station, or place at which at least 2 shifts are employed; or

(2) a total of 12 hours during a 24-hour period in a tower, office, station, or place at which only one shift is employed.

(c) DETERMINING TIME ON DUTY.—Under subsection (b) of this section, time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is on duty in a tower, office, station, or other place is time on duty in that tower, office, station, or place.

(d) EMERGENCIES.—When an emergency exists, a dispatching service employee may be allowed to remain or go on duty for not more than 4 additional hours during a period of 24 consecutive hours for not more than 3 days during a period of 7 consecutive days.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 890.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 21105(a) .....         | 45:62(d).                 | Mar. 4, 1907, ch. 2939, §2(d), 34 Stat. 1416; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464.   |
|                        | 45:63a(e).                | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(e); added July 8, 1976, Pub. L. 94-348, §4(d), 90 Stat. 819.   |
| 21105(b) .....         | 45:63(a).                 | Mar. 4, 1907, ch. 2939, §3, 34 Stat. 1416; May 4, 1916, ch. 109, §1, 39 Stat. 61; Aug. 14, 1957, Pub. L. 85-135, §2, 71 Stat. 352; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100-342, §16(3), 102 Stat. 635. |
| 21105(c) .....         | 45:63(b).                 |   |
| 21105(d) .....         | 45:63(c).                 |   |

In this section, the words “dispatching service employee” are substituted for “operator, train dispatcher, or other employee who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements” in 45:63(a), “employee . . . on duty in a class of service . . . described in paragraph (1) or (2) of such subsection” in 45:63(b), and “employees named in such subsection” in 45:63(c) because of the definition of “dispatching service employee” in section 21101 of the revised title.

In subsection (a), the words “This section applies, rather than section 21103 or 21104 of this title” are substituted for “The provisions of this section shall not apply” because of the restatement. The words “train employee” are substituted for “employee” in 45:62(d), and the words “signal employee” are substituted for “individual” in 45:63a(e), for consistency in this chapter and because of the definitions of “signal employee” and “train employee” in section 21101 of the revised title. The words “during any period of time the employee is performing duties of a dispatching service employee” are substituted for “during such period of time as the provisions of section 63 of this title apply to his duty and off-duty periods” in 45:62(d) and 63a(e) for clarity.

In subsection (b), before clause (1), the words “a total of” are substituted for “whether consecutive or in the aggregate” to eliminate unnecessary words.

In subsection (c), the words “a tower, office, station, or other place” are substituted for “a place, described in paragraph (1) or (2) of such subsection” for clarity.

In subsection (d), the words “When an emergency exists” are substituted for “in case of emergency” for consistency in this chapter.

#### § 21106. Limitations on employee sleeping quarters

A railroad carrier and its officers and agents—

(1) may provide sleeping quarters (including crew quarters, camp or bunk cars, and trailers) for employees, and any individuals employed to maintain the right of way of a railroad carrier, only if the sleeping quarters are clean, safe, and sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier; and

(2) may not begin, after July 7, 1976, construction or reconstruction of sleeping quarters referred to in clause (1) of this section in an area or in the immediate vicinity of an area, as determined under regulations prescribed by the Secretary of Transportation, in which railroad switching or humping operations are performed.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 891.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>           | <i>Source (Statutes at Large)</i>  |
|------------------------|-------------------------------------|--|
| 21106 .....            | 45:62(a)(3), (4).                   | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §2(a)(3), (4); added July 8, 1976, Pub. L. 94-348, §4(a)(3), 90 Stat. 818; June 22, 1988, Pub. L. 100-342, §16(2), 102 Stat. 634.             |
|                        | 45:62(e).                           | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §2(e); added June 22, 1988, Pub. L. 100-342, §19(b)(1), 102 Stat. 638.  |
|                        | 45:63a(d) (related to 45:62(a)(3)). | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §2(a)(3)); added July 8, 1976, Pub. L. 94-348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100-342, §16(4), 102 Stat. 635. |

In this section, before clause (1), the words “and any individuals employed to maintain the right of way of a railroad carrier” are substituted for 45:62(e) because of the restatement.

#### § 21107. Maximum duty hours and subjects of collective bargaining

The number of hours established by this chapter that an employee may be required or allowed to be on duty is the maximum number of hours consistent with safety. Shorter hours of service and time on duty of an employee are proper subjects for collective bargaining between a railroad carrier and its employees.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 891.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>     | <i>Source (Statutes at Large)</i>  |
|------------------------|-------------------------------|--|
| 21107 .....            | 45:63a(d) (related to 45:64). | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §4); added July 8, 1976, Pub. L. 94-348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100-342, §16(4), 102 Stat. 635. |
|                        | 45:64.                        | Mar. 4, 1907, ch. 2939, §4, 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100-342, §16(5), 102 Stat. 635.                    |

#### § 21108. Pilot projects

(a) WAIVER.—A railroad carrier or railroad carriers and all labor organizations representing any class or craft of directly affected covered service employees of the railroad carrier or railroad carriers, may jointly petition the Secretary of Transportation for approval of a waiver, in whole or in part, of compliance with this chapter, to enable the establishment of one or more pilot projects to demonstrate the possible benefits of implementing alternatives to the strict application of the requirements of this chapter to such class or craft of employees, including requirements concerning maximum on-duty and minimum off-duty periods. Based on such a joint petition, the Secretary may, after notice and opportunity for comment, waive in whole or in part compliance with this chapter for a period of no more than two years, if the Secretary determines that such waiver of compliance is in the public interest and is consistent with railroad safety. Any such waiver may, based on a new petition, be extended for addi-

tional periods of up to two years, after notice and opportunity for comment. An explanation of any waiver granted under this section shall be published in the Federal Register.

(b) REPORT.—The Secretary of Transportation shall submit to Congress, no later than January 1, 1997, a report that—

(1) explains and analyzes the effectiveness of all pilot projects established pursuant to a waiver granted under subsection (a);

(2) describes the status of all other waivers granted under subsection (a) and their related pilot projects, if any; and

(3) recommends appropriate legislative changes to this chapter.

(c) DEFINITION.—For purposes of this section, the term “directly affected covered service employees” means covered service employees to whose hours of service the terms of the waiver petitioned for specifically apply.

(Added Pub. L. 103–440, title II, §203(a), Nov. 2, 1994, 108 Stat. 4619.)

## CHAPTER 213—PENALTIES

### SUBCHAPTER I—CIVIL PENALTIES

Sec.

- 21301. Chapter 201 general violations.
- 21302. Chapter 201 accident and incident violations and chapter 203–209 violations.
- 21303. Chapter 211 violations.
- 21304. Willfulness requirement for penalties against individuals.

### SUBCHAPTER II—CRIMINAL PENALTIES

- 21311. Records and reports.

### SUBCHAPTER I—CIVIL PENALTIES

#### § 21301. Chapter 201 general violations

(a) PENALTY.—(1) A person may not fail to comply with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title. Subject to section 21304 of this title, a person violating a regulation prescribed or order issued by the Secretary under chapter 201 is liable to the United States Government for a civil penalty. The Secretary shall impose the penalty applicable under paragraph (2) of this subsection. A separate violation occurs for each day the violation continues.

(2) The Secretary shall include in, or make applicable to, each regulation prescribed and order issued under chapter 201 of this title a civil penalty for a violation. The amount of the penalty shall be at least \$500 but not more than \$10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than \$20,000.

(3) The Secretary may compromise the amount of a civil penalty imposed under this subsection to not less than \$500 before referring the matter to the Attorney General for collection. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the

ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(b) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) DEPOSIT IN TREASURY.—A civil penalty collected under this section or section 20113(b) of this title shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 891; Pub. L. 104–287, §5(53), Oct. 11, 1996, 110 Stat. 3393.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103–272

| Revised Section | Source (U.S. Code)  | Source (Statutes at Large)  |
|-----------------|---|---|
| 21301(a)(1) ..  | 45:438(a).  | Oct. 16, 1970, Pub. L. 91–458, §209(a), 84 Stat. 975; re-stated Jan. 14, 1983, Pub. L. 97–468, §706, 96 Stat. 2581; June 22, 1988, Pub. L. 100–342, §3(a)(1), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §9(a)(1), 106 Stat. 977.   |
|                 | 45:438(c) (1st, 3d sentences).  | Oct. 16, 1970, Pub. L. 91–458, §209(c) (1st, 3d, 5th–8th sentences), 84 Stat. 975; June 22, 1988, Pub. L. 100–342, §3(a)(3)(A), (C), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §4(c)(1), 106 Stat. 974.  |
| 21301(a)(2) ..  | 45:438(b) (related to rules, regulations, orders, or standards issued under this subchapter). | Oct. 16, 1970, Pub. L. 91–458, §209(b) (related to rules, regulations, orders, or standards issued under this title), 84 Stat. 975; Jan. 3, 1975, Pub. L. 93–633, §204(a), 88 Stat. 2165; June 22, 1988, Pub. L. 100–342, §3(a)(2), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102–365, §4(a)(1), 106 Stat. 973. |
| 21301(a)(3) ..  | 45:438(c) (5th, 6th sentences).   |   |
| 21301(b) .....  | 45:438(c) (7th sentence).   |   |
| 21301(c) .....  | 45:438(c) (8th sentence).   |   |

In subsection (a), the words “impose” and “imposed” are substituted for “assessed”, for consistency in the revised title.

In subsection (a)(1), the first 2 sentences are substituted for 45:438(a) and (c) (1st sentence) for consistency in the revised title and to eliminate unnecessary words. The words “(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)” are omitted as surplus because of the definition of “person” in 1:1 and because the provision being violated indicates to whom it applies. The word “shall” in 45:438(c) (1st sentence) is retained from the source provisions. For a discussion of whether the authority of the Secretary of Transportation to impose a penalty is mandatory or permissive, see *Railway Labor Executives’ Ass’n v. Dole*, 760 F.2d 1021, 1024, 1025 (9th Cir. 1985); H.R. Conf. Rept. No. 100–637, 100th Cong., 2d Sess., p. 20; 134 Cong. Rec. H3470, May 23, 1988 (daily ed.); 134 Cong. Rec. S7510, June 9, 1988 (daily ed.). See also 134 Cong. Rec. E1946, June 10, 1988 (daily ed.). For an extended discussion of FRA’s prosecutorial discretion, see *Nationwide Rail Safety: Hearing Before the Subcommittee on Transportation, Tourism, and Hazardous Materials of the House Energy and Commerce Committee*, 100th Cong., 1st Sess., pp. 54–65 (1987). See also section 6 of this bill that provides

that this bill restates, without substantive change, the provisions of law replaced by this bill, and that this bill may not be construed as making a substantive change in the law restated. Therefore, the word “shall” in this subsection has the same meaning it has under existing law. The words “A separate violation” are substituted for “a separate offense” for consistency.

In subsection (a)(3), the words “may compromise the amount . . . to not less than \$500” are substituted for “may, however, be compromised . . . for any amount, but in no event for an amount less than the minimum provided in subsection (b) of this section” for clarity and to eliminate unnecessary words. In clause (B), the words “prior or subsequent” are omitted as unnecessary.

In subsection (c), the words “deposited in” are substituted for “covered into” for consistency in the revised title and with other titles of the United States Code.

#### PUB. L. 104-287

This amends 49:21301(a)(1) to clarify the restatement of 45:438(a) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 891).

#### AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-287, § 5(3)(B), substituted “Secretary under chapter 201 is liable” for “Secretary of Transportation under chapter 201 of this title is liable”.

Pub. L. 104-287, § 5(3)(A), inserted “A person may not fail to comply with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title.” before “Subject to”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

### § 21302. Chapter 201 accident and incident violations and chapter 203-209 violations

(a) PENALTY.—(1) Subject to section 21304 of this title, a person violating a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation, or violating chapters 203-209 of this title or a regulation or requirement prescribed or order issued under chapters 203-209, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The amount of the penalty shall be at least \$500 but not more than \$10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than \$20,000.

(3) The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(4) If the Secretary does not compromise the amount of the civil penalty, the Secretary shall

refer the matter to the Attorney General for collection.

(b) CIVIL ACTIONS TO COLLECT.—The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 892.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)   | Source (Statutes at Large)  |
|-----------------|--|---|
| 21302 .....     | 45:6 (1st sentence words before 23d comma and between 24th comma and proviso, 2d sentence words before 2d comma, last sentence). | Mar. 2, 1893, ch. 196, § 6 (1st sentence words before 23d comma and between 24th comma and proviso, 2d sentence words before 2d comma, last sentence), 27 Stat. 532; restated Apr. 1, 1896, ch. 87, 29 Stat. 85; Aug. 14, 1957, Pub. L. 85-135, § 1(1), 71 Stat. 352; July 8, 1976, Pub. L. 94-348, § 3(a), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95-574, § 7(a), 92 Stat. 2461; Oct. 10, 1980, Pub. L. 96-423, § 8(b), 94 Stat. 1814; June 22, 1988, Pub. L. 100-342, § 13(1)(F), 102 Stat. 630; Sept. 3, 1992, Pub. L. 102-365, §§ 4(a)(1), (c)(3), 9(a)(3), 106 Stat. 973, 974, 977. |
|                 | 45:8 (words before 16th comma).  | Mar. 2, 1903, ch. 976, § 1 (words before 23d comma), 32 Stat. 943; June 22, 1988, Pub. L. 100-342, § 13(2)(A), 102 Stat. 631.   |
|                 | 45:9 (last sentence).  | Mar. 2, 1903, ch. 976, 32 Stat. 943, § 2 (last sentence); added Apr. 11, 1958, Pub. L. 85-375, § 1(b)(3), 72 Stat. 86.  |
|                 | 45:10 (words after 19th comma).  | Mar. 2, 1903, ch. 976, § 3 (last sentence words after semicolon), 32 Stat. 944.   |
|                 | 45:12 (1st sentence words after semicolon).  | Apr. 14, 1910, ch. 160, § 3 (1st sentence words between semicolon and proviso), 36 Stat. 298.   |
|                 | 45:13 (1st sentence words before last comma, 2d sentence words before proviso, last sentence).                                   | Apr. 14, 1910, ch. 160, § 4 (1st sentence words before last comma, 2d sentence words before proviso, last sentence), 36 Stat. 299; Aug. 14, 1957, Pub. L. 85-135, § 1(2), 71 Stat. 352; July 8, 1976, Pub. L. 94-348, § 3(b), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95-574, § 7(b), 92 Stat. 2461; June 22, 1988, Pub. L. 100-342, § 13(3) (C)(i)-(iv), 102 Stat. 632; Sept. 3, 1992, Pub. L. 102-365, §§ 4(a)(1), (c)(4), 9(a)(5), 106 Stat. 973, 974, 978.  |
|                 | 45:14 (words after semicolon).   | Apr. 14, 1910, ch. 160, § 5 (words after semicolon), 36 Stat. 299.  |
|                 | 45:30 (1st sentence related to 45:34).   | Mar. 4, 1915, ch. 169, § 2 (1st sentence related to § 9 of Act of Feb. 17, 1911), 38 Stat. 1192; Apr. 22, 1940, ch. 124, § 2, 54 Stat. 148; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320.   |

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>  | <i>Source (Statutes at Large)</i>   |
|------------------------|--|---|
|                        | 45:34 (1st sentence words before last comma, 2d, last sentences).  | Feb. 17, 1911, ch. 103, § 9 (1st sentence words before last comma, 2d, last sentences), 36 Stat. 916; Apr. 22, 1940, ch. 124, § 1 (related to § 9 of Act of Feb. 17, 1911), 54 Stat. 148; Aug. 14, 1957, Pub. L. 85-135, § 3, 71 Stat. 352; Reorg. Plan No. 3 of 1965, eff. July 27, 1965, 79 Stat. 1320; July 8, 1976, Pub. L. 94-348, § 3(c), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95-574, § 7(c), 92 Stat. 2461; Oct. 10, 1980, Pub. L. 96-423, § 8(c), 94 Stat. 1814; June 22, 1988, Pub. L. 100-342, § 14(7)(A), 102 Stat. 633; Sept. 3, 1992, Pub. L. 102-365, § 4(a)(1), (c)(7), 9(a)(8), 106 Stat. 973, 975, 978.      |
|                        | 45:43 (1st sentence words before last comma, 2d sentence, 3d sentence words before 5th comma, last sentence).                | May 6, 1910, ch. 208, § 7 (1st sentence words before last comma, 2d sentence, 3d sentence words before 5th comma, last sentence), 36 Stat. 351; Sept. 13, 1960, Pub. L. 86-762, § 3, 74 Stat. 904; restated June 22, 1988, Pub. L. 100-342, § 15(4), 102 Stat. 634; Sept. 3, 1992, Pub. L. 102-365, § 4(a)(1), (c)(5), 9(a)(6), 106 Stat. 973, 974, 978.  |
|                        | 45:438(b) (related to 45:39).  | Oct. 16, 1970, Pub. L. 91-458, § 209(b) (related to § 2 of Act of May 6, 1910), 84 Stat. 975; Jan. 3, 1975, Pub. L. 93-633, § 204(a), 88 Stat. 2165; June 22, 1988, Pub. L. 100-342, § 3(a)(2), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102-365, § 4(a)(1), 106 Stat. 973.  |
|                        | 49 App.:26(h) (1st sentence words before last comma, 2d, 3d sentences, 4th sentence words before last comma, last sentence). | Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(h) (1st sentence words before last comma, 2d, 3d sentences, 4th sentence words before last comma, last sentence); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919; July 8, 1976, Pub. L. 94-348, § 3(d), 90 Stat. 818; Nov. 2, 1978, Pub. L. 95-574, § 7(d), 92 Stat. 2461; Oct. 10, 1980, Pub. L. 96-423, § 8(d), 94 Stat. 1814; June 22, 1988, Pub. L. 100-342, § 17(7), (8), 102 Stat. 636; Sept. 3, 1992, Pub. L. 102-365, § 4(a)(1), (c)(6), 9(a)(7), 106 Stat. 973, 974, 978. |
|                        | 49 App.:1655(e)(1)(A), (C), (E)-(G), (K), (6)(A).  | Oct. 15, 1966, Pub. L. 89-670, § 6(e)(1)(A), (C), (E)-(G), (K), (6)(A), 80 Stat. 939.   |

In subsection (a)(1), the words “(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)” are omitted as surplus because of the definition of “person” in 1:1 and because the provision being violated indicates to whom it applies. The words “violating a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation” are substituted for “violating . . . any rule, regulation, order, or standard issued under . . . the Federal Railroad Safety Act of 1970 [45 U.S.C. 431 et seq.] pertaining to accident reporting or investigations” in 45:43, and the words “violating chapters 203–209 of this title or a regulation or requirement prescribed or order issued under chapters 203–209” are substituted for various language in the source provisions, for clarity, for consistency in this section, and to eliminate unnecessary words. The words “liable to the

United States Government for a civil penalty” are substituted for “liable to a penalty” for clarity. The text of 45:438(b) (related to 45:39) is omitted as covered by 45:43.

In subsection (a)(2), the words “The Secretary of Transportation imposes a civil penalty under this subsection” are substituted for “to be assessed by the Secretary of Transportation” in 45:6, “Such penalty shall be assessed by the Secretary of Transportation” in 45:13, the text of 45:10 (words after 7th comma) and 14 (words after semicolon), and “in such amount . . . as the Secretary of Transportation deems reasonable” in 45:34 and 43 and 49 App.:26(h) for clarity and to eliminate unnecessary words. The words “per violation” are omitted as surplus.

In subsections (a)(3) and (b), the words “Attorney General” are substituted for “United States attorney”, “such attorneys, subject to the direction of the Attorney General”, “proper United States attorney” and “proper United States attorneys” because of 28:509.

In subsection (a)(3), the words “section 3711 of title 31” are substituted for “the Federal Claims Collection Act of 1966” and “sections 3711 and 3716 to 3718 of title 31” because the Federal Claims Collection Act of 1966 has been repealed and reenacted as part of title 31 and penalties are compromised under 31:3711. In clause (B), the words “prior or subsequent” are omitted as unnecessary.

In subsection (a)(4), the words “the Secretary shall refer the matter to the Attorney General for collection” are substituted for “recovered in a suit or suits to be brought by” for clarity. The words “and it shall also be the duty of the Secretary of Transportation to lodge with . . . information of any such violations as may come to his knowledge” and “and it shall be the duty of the director of locomotive inspection to give information . . . of all violations coming to his knowledge” are omitted as obsolete.

In subsection (b), the words “The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section” are substituted for “and it shall be the duty of such United States attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred” in 45:6, and for “It shall be the duty of such attorneys to bring such suits upon duly verified information being lodged with them showing such violations having occurred” in 49 App.:26, for clarity and consistency in this section and with other provisions of the revised title.

### § 21303. Chapter 211 violations

(a) PENALTY.—(1) Subject to section 21304 of this title, a person violating chapter 211 of this title, or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. For a violation of section 21106 of this title, a separate violation occurs for each day a facility is not in compliance.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The amount of the penalty shall be at least \$500 but not more than \$10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than \$20,000.

(3) The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(4) If the Secretary does not compromise the amount of the civil penalty, the Secretary shall refer the matter to the Attorney General for collection.

(b) **CIVIL ACTIONS TO COLLECT.**—(1) The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section after satisfactory information is presented to the Attorney General. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action under this subsection must be brought not later than 2 years after the date of the violation unless administrative notification under section 3711 of title 31 is given within that 2-year period to the person committing the violation. However, even if notification is given, the action must be brought within the period specified in section 2462 of title 28.

(c) **IMPUTATION OF KNOWLEDGE.**—In any proceeding under this section, a railroad carrier is deemed to know the acts of its officers and agents.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 892; Pub. L. 103-440, title II, §204, Nov. 2, 1994, 108 Stat. 4620; Pub. L. 104-287, §5(54), Oct. 11, 1996, 110 Stat. 3393.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103-272

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>   |
|------------------------|---|---|
| 21303 .....            | 45:63a(d) (related to 45:64a).  | Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §5); added July 8, 1976, Pub. L. 94-348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100-342, §16(4), 102 Stat. 635.  |
|                        | 45:64a(a)(1) (1st sentence words before last comma, 2d-4th sentences, 5th sentence words before last comma, last sentence). | Mar. 4, 1907, ch. 2939, §5(a)(1) (1st sentence words before last comma, 2d-4th sentences, 5th sentence words before last comma, last sentence), 34 Stat. 1417; Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; July 8, 1976, Pub. L. 94-348, §4(e), 90 Stat. 819; Oct. 10, 1980, Pub. L. 96-423, §12, 94 Stat. 1816; restated June 22, 1988, Pub. L. 100-342, §16(6)(A), 102 Stat. 635; Sept. 3, 1992, Pub. L. 102-365, §§4(a)(2), (c)(2), 9(a)(2), 106 Stat. 973, 974, 977. |
|                        | 45:64a(a)(2).   | Mar. 4, 1907, ch. 2939, §5(a)(2), 34 Stat. 1417; Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; July 8, 1976, Pub. L. 94-348, §4(e), 90 Stat. 819; restated Oct. 10, 1980, Pub. L. 96-423, §12, 94 Stat. 1816; June 22, 1988, Pub. L. 100-342, §16(6)(B), 102 Stat. 635.  |

#### HISTORICAL AND REVISION NOTES—CONTINUED PUB. L. 103-272

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
|                        | 45:64a(b).                | Mar. 4, 1907, ch. 2939, §5(b), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464.   |
|                        | 45:64a(c).                | Mar. 4, 1907, ch. 2939, §5(c), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100-342, §16(6)(C), 102 Stat. 635. |

In this section, the words “Attorney General” are substituted for “United States attorney” because of 28:509. The words “civil action” are substituted for “suit or suits”, “action”, and “prosecutions” for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (a)(1), the words “(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)” are omitted as surplus because of the definition of “person” in 1:1 and because the provision being violated indicates to whom it applies. The words “violating chapter 211 of this title” are substituted for “that requires or permits any employee to go, be, or remain on duty in violation of section 62, section 63, or section 63a of this title, or that violates any other provision of this chapter” to eliminate unnecessary words. The words “to the United States Government for a civil penalty” are substituted for “for a penalty” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words “The Secretary of Transportation imposes a civil penalty under this subsection” are substituted for “as the Secretary of Transportation deems reasonable” for clarity and consistency.

In subsection (a)(3), the words “section 3711 of title 31” are substituted for “sections 3711 and 3716 to 3718 of title 31” because penalties are compromised under 31:3711. In clause (B), the words “prior or subsequent” are omitted as unnecessary.

In subsection (a)(4), the words “the Secretary shall refer the matter to the Attorney General for collection” are substituted for “recovered in a suit or suits to be brought by” for clarity. The text of 45:64a(b) is omitted as obsolete.

In subsection (b)(1), the words “The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section after satisfactory information is presented to the Attorney General” are substituted for “It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged with him” for clarity and consistency in this section and with other provisions of the revised title.

In subsection (c), the words “any proceeding” are substituted for “all prosecutions” for consistency in the revised title.

#### PUB. L. 104-287

This amends 49:21303(a)(1) to correct a grammatical error.

#### AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-287 inserted a comma after “chapter 211 of this title”.

1994—Subsec. (a)(1). Pub. L. 103-440 inserted “or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title,” after “chapter 211 of this title”.



### § 21304. Willfulness requirement for penalties against individuals

A civil penalty under this subchapter may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 893.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)  | Source (Statutes at Large)  |
|-----------------|---|---|
| 21304 .....     | 45:6 (1st sentence words between 23d and 24th commas, 2d sentence words after 2d comma, 3d sentence).   | Mar. 2, 1893, ch. 196, §6 (1st sentence words between 23d and 24th commas, 2d sentence words after 2d comma, 3d sentence), 27 Stat. 532; restated June 22, 1988, Pub. L. 100-342, §13(1)(F), 102 Stat. 630; Sept. 3, 1992, Pub. L. 102-365, §9(a)(3), 106 Stat. 977.  |
|                 | 45:13 (1st sentence words after last comma, 3d, 4th sentences).   | Apr. 14, 1910, ch. 160, §4 (1st sentence words after last comma, 3d, 4th sentences), 36 Stat. 299; June 22, 1988, Pub. L. 100-342, §13(3)(C)(iii), (v), 102 Stat. 632.  |
|                 | 45:34 (1st sentence words after last comma, 3d, 4th sentences).   | Feb. 17, 1911, ch. 103, §9 (1st sentence words after last comma, 3d, 4th sentences), 36 Stat. 916; June 22, 1988, Pub. L. 100-342, §14(7), 102 Stat. 633.   |
|                 | 45:43 (1st sentence words after last comma, 3d sentence words after 5th comma, 4th sentence).           | May 6, 1910, ch. 208, §7 (1st sentence words after last comma, 3d sentence words after 5th comma, 4th sentence), 36 Stat. 351; Sept. 13, 1960, Pub. L. 86-762, §3, 74 Stat. 904; restated June 22, 1988, Pub. L. 100-342, §15(4), 102 Stat. 634.  |
|                 | 45:64a(a)(1) (1st sentence words after last comma, 5th sentence words after last comma, 6th sentence).  | Mar. 4, 1907, ch. 2939, §5(a)(1) (1st sentence words after last comma, 5th sentence words after last comma, 6th sentence), 34 Stat. 1417; restated June 22, 1988, Pub. L. 100-342, §16(6)(A), 102 Stat. 635.  |
|                 | 45:438(c) (2d, 9th, last sentences).  | Oct. 16, 1970, Pub. L. 91-458, §209(c) (2d, 8th, last sentences), 84 Stat. 975; June 22, 1988, Pub. L. 100-342, §3(a)(3)(A), (C), 102 Stat. 624; Sept. 3, 1992, Pub. L. 102-365, §4(c)(1), 106 Stat. 974.   |
|                 | 49 App.:26(h) (1st sentence words after last comma, 4th sentence words after last comma, 5th sentence). | Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(h) (1st sentence words after last comma, 4th sentence words after last comma, 5th sentence); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; June 22, 1988, Pub. L. 100-342, §17(7), 102 Stat. 636. |

The word “official” is added the 2d time it appears for consistency in this section.

#### SUBCHAPTER II—CRIMINAL PENALTIES

### § 21311. Records and reports

(a) RECORDS AND REPORTS UNDER CHAPTER 201.—A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person knowingly and willfully—

(1) makes a false entry in a record or report required to be made or preserved under chapter 201 of this title;

(2) destroys, mutilates, changes, or by another means falsifies such a record or report;

(3) does not enter required specified facts and transactions in such a record or report;

(4) makes or preserves such a record or report in violation of a regulation prescribed or order issued under chapter 201 of this title; or

(5) files a false record or report with the Secretary of Transportation.

(b) ACCIDENT AND INCIDENT REPORTS.—A railroad carrier not filing the report required by section 20901 of this title shall be fined not more than \$500 for each violation and not more than \$500 for each day during which the report is overdue.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 893.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)       | Source (Statutes at Large)  |
|-----------------|--------------------------|---|
| 21311(a) .....  | 45:438(e).               | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §209(e); added Oct. 10, 1980, Pub. L. 96-423, §7, 94 Stat. 1814.   |
| 21311(b) .....  | 45:39 (related to fine). | May 6, 1910, ch. 208, §2 (related to fine), 36 Stat. 351; Jan. 3, 1975, Pub. L. 93-633, §204(b), 88 Stat. 2166; June 22, 1988, Pub. L. 100-342, §15(2), 102 Stat. 634; Sept. 3, 1992, Pub. L. 102-365, §4(a)(3), 106 Stat. 973. |

In subsection (a), before clause (1), the words “fined under title 18” are substituted for “fined not more than \$5,000” for consistency with title 18. In clause (1), the word “prepared” is omitted as surplus. In clause (4), the word “prepares” is omitted as surplus.

In subsection (b), the words “shall be deemed guilty of a misdemeanor” are omitted for consistency with title 18. The words “upon conviction thereof by a court of competent jurisdiction” and “punished by a” are omitted as surplus.

#### PART B—ASSISTANCE

### CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

|        |  |
|--------|--|
| Sec.   |  |
| 22101. | Financial assistance for State projects. |
| 22102. | Eligibility.                             |
| 22103. | Applications.                            |
| 22104. | State rail plan financing.               |
| 22105. | Sharing project costs.                   |
| 22106. | Limitations on financial assistance.     |
| 22107. | Records, audits, and information.        |
| 22108. | Authorization of appropriations.         |

### § 22101. Financial assistance for State projects

(a) GENERAL.—The Secretary of Transportation shall provide financial assistance to a State, as provided under this chapter, for a rail freight assistance project of the State when a rail carrier subject to part A of subtitle IV of this title maintains a rail line in the State. The assistance is for the cost of—

(1) acquiring, in any way the State considers appropriate, an interest in a rail line or rail property to maintain existing, or to provide future, rail freight transportation, but only if the Surface Transportation Board has authorized, or exempted from the requirements of that authorization, the abandonment of, or the discontinuance of rail transportation on, the rail line related to the project;

(2) improving and rehabilitating rail property on a rail line to the extent necessary to allow adequate and efficient rail freight transportation on the line, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year; and

(3) building rail or rail-related facilities (including new connections between at least 2 existing rail lines, intermodal freight terminals, sidings, bridges, and relocation of existing lines) to improve the quality and efficiency of the rail freight transportation, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(b) **CALCULATING COST-BENEFIT RATIO.**—The Secretary shall establish a methodology for calculating the ratio of benefits to costs of projects proposed under this chapter. In establishing the methodology, the Secretary shall consider the need for equitable treatment of different regions of the United States and different commodities transported by rail. The establishment of the methodology is committed to the discretion of the Secretary.

(c) **CONDITIONS.**—(1) Assistance for a project shall be provided under this chapter only if—

(A) a rail carrier certifies that the rail line related to the project carried more than 20 carloads a mile during the most recent year during which transportation was provided by the carrier on the line; and

(B) the ratio of benefits to costs for the project, as calculated using the methodology established under subsection (b) of this section, is more than 1.0.

(2) If the rail carrier that provided the transportation on the rail line is no longer in existence, the applicant for the project shall provide the information required by the certification under paragraph (1)(A) of this subsection in the way the Secretary prescribes.

(3) The Secretary may waive the requirement of paragraph (1)(A) or (2) of this subsection if the Secretary—

(A) decides that the rail line has contractual guarantees of at least 40 carloads a mile for each of the first 2 years of operation of the proposed project; and

(B) finds that there is a reasonable expectation that the contractual guarantees will be fulfilled.

(d) **LIMITATIONS ON AMOUNTS.**—A State may not receive more than 15 percent of the amounts provided in a fiscal year under this chapter. Not more than 20 percent of the amounts available under this chapter may be provided in a fiscal year for any one project.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 894; Pub. L. 104-88, title III, §308(f)(1), (2), Dec. 29, 1995, 109 Stat. 947.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 22101(a) .....         | 49 App.:1654(b).          | Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §5(b), (c), (n)-(p); added Feb. 5, 1976, Pub. L. 94-210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95-607, §§102-106(a), 107-109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96-86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97-35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97-468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99-272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101-213, §2(a), (c), 103 Stat. 1843, 1844, 1848. |
| 22101(b) .....         | 49 App.:1654(p).          |  |
| 22101(c) .....         | 49 App.:1654(n).          |  |
| 22101(d) .....         | 49 App.:1654(c).          |  |
|                        | 22101(d) .....            | 49 App.:1654(o).   |

In this chapter, the word “transportation” is substituted for “service” for consistency in the revised title.

In subsection (a), before clause (1), the words “when a rail carrier . . . maintains a rail line in the State” are substituted for “As used in this section, the term ‘State’ means any State in which a rail carrier providing transportation . . . maintains any line of railroad” because of the restatement. The words “the jurisdiction of the Interstate Commerce Commission” are omitted as unnecessary because of 49:ch. 105. In clause (1), the words “by purchase, lease” are omitted as being included in “in any way the State considers appropriate” to eliminate unnecessary words.

In subsection (b), the words “no later than July 1, 1990” are omitted as executed.

In subsection (c)(1), before clause (A), the words “Assistance for a project shall be provided under this chapter only if” are substituted for “No project shall be provided rail freight assistance under this section unless” because of the restatement.

In subsection (c)(2), the words “If the rail carrier that provided the transportation on the rail line” are substituted for “In a case where the railroad”, and the words “information required by the certification under paragraph (1)(A) of this subsection” are substituted for “such information”, for clarity.

## AMENDMENTS

1995—Subsec. (a). Pub. L. 104-88 substituted “part A of subtitle IV” for “subchapter I of chapter 105” in introductory provisions and “Surface Transportation Board” for “Interstate Commerce Commission” in par. (1).

## EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

## § 22102. Eligibility

A State is eligible to receive financial assistance under this chapter only when the State complies with regulations the Secretary of Transportation prescribes under this chapter and the Secretary decides that—

(1) the State has an adequate plan for rail transportation in the State and a suitable process for updating, revising, and modifying the plan;

(2) the State plan is administered or coordinated by a designated State authority and provides for a fair distribution of resources;

(3) the State authority—

(A) is authorized to develop, promote, supervise, and support safe, adequate, and efficient rail transportation;

(B) employs or will employ sufficient qualified and trained personnel;

(C) maintains or will maintain adequate programs of investigation, research, promotion, and development with opportunity for public participation; and

(D) is designated and directed to take all practicable steps (by itself or with other State authorities) to improve rail transportation safety and reduce energy use and pollution related to transportation; and

(4) the State has ensured that it maintains or will maintain adequate procedures for financial control, accounting, and performance evaluation for the proper use of assistance provided by the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 895.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 22102 .....            | 49 App.:1654(a).          | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(a); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1844. |

In this section, before clause (1), the words “and the Secretary decides that” are substituted for “and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection” to eliminate unnecessary words. In clauses (2) and (3), the word “authority” is substituted for “agency” for consistency in the revised title. In clause (2), the word “fair” is substituted for “equitable” for consistency in the revised title. In clause (3)(A), the words “is authorized” are substituted for “has authority and administrative jurisdiction” to eliminate unnecessary words. In clause (3)(B), the words “directly or indirectly” are omitted as surplus. In clause (4), the word “adopt” is omitted as being included in “maintain”.

#### § 22103. Applications

(a) FILING.—A State must file an application with the Secretary of Transportation for financial assistance for a project described under section 22101(a) of this title not later than January 1 of the fiscal year for which amounts have been appropriated. However, for a fiscal year for which the authorization of appropriations for assistance under this chapter has not been enacted by the first day of the fiscal year, the State must file the application not later than 90 days after the date of enactment of a law authorizing the appropriations for that fiscal year. The Secretary shall prescribe the form of the application.

(b) CONSIDERATIONS.—In considering an application under this subsection, the Secretary shall consider the following:

(1) the percentage of rail lines that rail carriers have identified to the Surface Transpor-

tation Board for abandonment or potential abandonment in the State.

(2) the likelihood of future abandonments in the State.

(3) the ratio of benefits to costs for a proposed project calculated using the methodology established under section 22101(b) of this title.

(4) the likelihood that the rail line will continue operating with assistance.

(5) the impact of rail bankruptcies, rail restructuring, and rail mergers on the State.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 896; Pub. L. 104–88, title III, §308(f)(3), Dec. 29, 1995, 109 Stat. 947.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>        | <i>Source (Statutes at Large)</i>  |
|------------------------|----------------------------------|--|
| 22103(a) .....         | 49 App.:1654(f) (1st sentence).  | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(f); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1846. |
| 22103(b) .....         | 49 App.:1654(f) (last sentence). |  |

In subsection (a), the words “under this chapter” are added for clarity. The words “a law” are substituted for “legislation” for consistency in the revised title.

In subsection (b)(3), the words “established by the Secretary” are omitted as surplus.

In subsection (b)(5), the words “applying for assistance” are omitted as unnecessary because of the restatement.

#### AMENDMENTS

1995—Subsec. (b)(1). Pub. L. 104–88 substituted “Surface Transportation Board” for “Interstate Commerce Commission”.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of this title.

#### § 22104. State rail plan financing

(a) ENTITLEMENT AND USES.—On the first day of each fiscal year, each State is entitled to \$36,000 of the amounts made available under section 22108 of this title during that fiscal year to be used—

(1) to establish, update, revise, and modify the State plan required by section 22102 of this title; or

(2) to carry out projects described in section 22101(a)(1), (2), or (3) of this title, as designated by the State, if those projects meet the requirements of section 22101(c)(1)(B) of this title.

(b) APPLICATIONS.—Each State must apply for amounts under this section not later than the first day of the fiscal year for which the amounts are available. However, for any fiscal year for which the authorization of appropria-

tions for financial assistance under this chapter has not been enacted by the first day of the fiscal year, the State must apply for amounts under this section not later than 60 days after the date of enactment of a law authorizing the appropriations for that fiscal year. Not later than 60 days after receiving an application, the Secretary of Transportation shall consider the application and notify the State of the approval or disapproval of the application.

(c) **AVAILABILITY OF AMOUNTS.**—Amounts provided under this section remain available to a State for obligation for the first 3 months after the end of the fiscal year for which the amounts were made available. Amounts not applied for under this section or that remain unobligated after the first 3 months after the end of the fiscal year for which the amounts were made available are available to the Secretary for projects meeting the requirements of this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 896.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>              | <i>Source (Statutes at Large)</i>  |
|------------------------|--|--|
| 22104(a) .....         | 49 App.:1654(g) (1st sentence).        | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(g); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1846. |
| 22104(b) .....         | 49 App.:1654(g) (2d, 3d sentences).    |  |
| 22104(c) .....         | 49 App.:1654(g) (4th, last sentences). |  |

In subsection (a)(1), the word “modify” is added for consistency with 49 App.:1654(a), restated in section 22102 of the revised title.

In subsection (b), the words “not later than the first day of the fiscal year for which the amounts are available” are substituted for “on or before the first day of the fiscal year” for clarity.

In subsection (c), the word “timely” is omitted as unnecessary. The words “the first 3 months after the end of the fiscal year for which the amounts were made available” are substituted for “the expiration of the period described in the previous sentence” for clarity.

#### § 22105. Sharing project costs

(a) **GENERAL.**—(1) The United States Government’s share of the costs of financial assistance for a project under this chapter is 50 percent, except that for assistance provided under section 22101(a)(2) of this title, the Government’s share is 70 percent. The State may pay its share of the costs in cash or through the following benefits, to the extent that the benefits otherwise would not be provided:

(A) forgiveness of taxes imposed on a rail carrier or its property.

(B) real and tangible personal property (provided by the State or a person for the State) necessary for the safe and efficient operation of rail freight transportation.

(C) track rights secured by the State for a rail carrier.

(D) the cash equivalent of State salaries for State employees working on the State project, except overhead and general administrative costs.

(2) A State may pay more than its required percentage share of the costs of a project under this chapter. When a State, or a person acting for a State, pays more than the State share of the costs of its projects during a fiscal year, the excess amount shall be applied to the State share for the costs of the State projects for later fiscal years.

(b) **AGREEMENTS TO COMBINE AMOUNTS.**—States may agree to combine any part of the amounts made available under this chapter to carry out a project that is eligible for assistance under this chapter when—

(1) the project will benefit each State making the agreement; and

(2) the agreement is not a violation of State law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 897.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 22105(a) .....         | 49 App.:1654(e).          | Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, §5(e), (j); added Feb. 5, 1976, Pub. L. 94–210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, §2(a), (c), 103 Stat. 1843, 1845, 1847. |
| 22105(b) .....         | 49 App.:1654(j).          |   |

In this section, the words “project” and “projects” are substituted for “program” for clarity and consistency in this section.

In subsection (a)(1), before clause (A), the words “financial assistance for a project under this chapter” are substituted for “rail freight assistance project” for clarity and consistency in this chapter. In clause (B), the words “for use in its rail freight assistance program” are omitted as unnecessary because of the restatement. In clause (D), the words “State employees” are substituted for “State public employees” to eliminate an unnecessary word.

In subsection (b), before clause (1), the words “States may agree” are substituted for “Two or more States . . . enter into an agreement” to eliminate unnecessary words.

#### § 22106. Limitations on financial assistance

(a) **GRANTS AND LOANS.**—A State shall use financial assistance for projects under this chapter to make a grant or lend money to the owner of rail property, or a rail carrier providing rail transportation, related to a project being assisted. The State shall decide on the financial terms of the grant or loan, except that the time for making grant advances shall comply with regulations of the Secretary of the Treasury.

(b) **HOLDING AND USE OF GOVERNMENT’S SHARE.**—The State shall place the United States Government’s share of money that is repaid in an interest-bearing account. However, the Secretary of Transportation may allow a borrower

to place that money, for the benefit of the State, in a bank designated by the Secretary of the Treasury under section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use the money and accumulated interest to make other grants and loans under this chapter in the same manner and under the same conditions as if they were originally granted to the State by the Secretary of Transportation.

(c) PAYMENT OF UNUSED MONEY AND ACCUMULATED INTEREST.—The State may pay the Secretary of Transportation the Government's share of unused money and accumulated interest at any time. However, the State must pay the unused money and accumulated interest to the Secretary when the State ends its participation under this chapter.

(d) ENCOURAGING PARTICIPATION.—To the maximum extent possible, the State shall encourage the participation of shippers, rail carriers, and local communities in paying the State share of assistance costs.

(e) RETENTION OF CONTINGENT INTEREST.—Each State shall retain a contingent interest (redeemable preference shares) for the Government's share of amounts in a rail line receiving assistance under this chapter. The State may collect its share of the amounts used for the rail line if—

- (1) an application for abandonment of the rail line is filed under chapter 109 of this title; or
- (2) the rail line is sold or disposed of after it has received assistance under this chapter.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 897; Pub. L. 104-287, §5(55), Oct. 11, 1996, 110 Stat. 3393.)

#### HISTORICAL AND REVISION NOTES

##### PUB. L. 103-272

| Revised Section | Source (U.S. Code)                       | Source (Statutes at Large)  |
|-----------------|--|---|
| 22106(a) .....  | 49 App.:1654(d)(1), (2).                 | Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §5(d), (i); added Feb. 5, 1976, Pub. L. 94-210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95-607, §§102-106(a), 107-109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96-86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97-35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97-468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99-272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101-213, §2(a), (c), 103 Stat. 1843, 1845, 1847. |
| 22106(b) .....  | 49 App.:1654(d)(3) (1st, 2d sentences).  |   |
| 22106(c) .....  | 49 App.:1654(d)(3) (3d, last sentences). |   |
| 22106(d) .....  | 49 App.:1654(d)(4).                      |   |
| 22106(e) .....  | 49 App.:1654(i).                         |   |

In subsection (a), the words “financial assistance for projects under this chapter” are substituted for “assistance provided under subsection (b) of this section” for clarity. The words “rail carrier providing rail transportation” are substituted for “operator of rail service” for consistency in the revised title. The word “conditions” is omitted as being included in “terms”. The words “Secretary of the Treasury” are substituted for “Department of the Treasury” because of 31:301(b).

In subsection (b), the words “in the same manner and under the same conditions as if they were originally

granted to the State by the Secretary” are omitted as unnecessary.

In subsection (e)(2), the words “assistance under this chapter” are substituted for “Federal assistance” for clarity and consistency in this chapter.

#### PUB. L. 104-287

This amends 49:22106(b) to clarify the restatement of 49 App.:1654(d)(3) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 897).

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-287 inserted “in the same manner and under the same conditions as if they were originally granted to the State by the Secretary of Transportation” after “under this chapter”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

### § 22107. Records, audits, and information

(a) RECORDS.—Each recipient of financial assistance through an arrangement under this chapter shall keep records required by the Secretary of Transportation. The records shall be kept for 3 years after a project is completed and shall disclose—

- (1) the amount of, and disposition by the recipient, of the assistance;
- (2) the total costs of the project for which the assistance was given or used;
- (3) the amount of that part of the costs of the project paid by other sources; and
- (4) any other records that will make an effective audit easier.

(b) AUDITS.—The Secretary shall make regular financial and performance audits, as provided under chapter 75 of title 31, of activities and transactions assisted under this chapter.

(c) INFORMATION.—The Surface Transportation Board shall provide the Secretary with information the Secretary requests to assist in carrying out this chapter. The Board shall provide the information not later than 30 days after receiving a request from the Secretary.

(d) LIST OF RAIL LINES.—Not later than August 1 of each year, each rail carrier subject to part A of subtitle IV of this title shall submit to the Secretary a list of the rail lines of the carrier that carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 898; Pub. L. 104-88, title III, §308(f)(4), (5), Dec. 29, 1995, 109 Stat. 947; Pub. L. 104-316, title I, §127(c), Oct. 19, 1996, 110 Stat. 3840.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)  | Source (Statutes at Large)   |
|-----------------|---------------------|--|
| 22107(a) .....  | 49 App.:1654(k)(1). | Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §5(k)-(m); added Feb. 5, 1976, Pub. L. 94-210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95-607, §§102-106(a), 107-109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96-86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97-35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97-468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99-272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101-213, §2(a), (c), 103 Stat. 1843, 1847. |

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 22107(b) .....         | 49 App.:1654(k)(2), (3).  |                                   |
| 22107(c) .....         | 49 App.:1654(l).          |                                   |
| 22107(d) .....         | 49 App.:1654(m).          |                                   |

In subsection (a), before clause (1), the words “an arrangement” are substituted for “whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements”, and the word “project” is substituted for “project or undertaking”, to eliminate unnecessary words and for consistency in this chapter.

Subsection (b) is substituted for 49 App.:1654(k)(2) and (3) because of 31:ch. 75.

In subsection (d), the words “Not later than” are substituted for “On or before” for clarity. The word “submit” is substituted for “prepare, update, and submit” to eliminate unnecessary words. The words “based on level of usage” are omitted as surplus.

## AMENDMENTS

1996—Subsec. (b). Pub. L. 104-316 struck out “and the Comptroller General” after “Secretary”.

1995—Subsec. (c). Pub. L. 104-88, §308(f)(4), substituted “Surface Transportation Board” for “Interstate Commerce Commission” and “The Board” for “The Commission”.

Subsec. (d). Pub. L. 104-88, §308(f)(5), substituted “part A of subtitle IV” for “subchapter I of chapter 105”.

## EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

## § 22108. Authorization of appropriations

(a) GENERAL.—(1) Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter:

(A) \$25,000,000 for the fiscal year ending September 30, 1993.

(B) \$30,000,000 for the fiscal year ending September 30, 1994.

(2) Amounts appropriated under paragraph (1) of this subsection remain available until expended.

(3) No amount may be appropriated under this subsection to the Secretary for any period after September 30, 1994, to carry out this chapter.

(b) DISTRIBUTION OF AMOUNTS.—The Secretary shall establish procedures necessary to ensure that amounts available to the Secretary for projects under this chapter are distributed not later than April 1 of the fiscal year for which the amounts are appropriated. If any amounts are not distributed by April 1, the Secretary shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of those amounts and the reasons for the delay in distribution.

(c) AVAILABILITY OF OTHER AMOUNTS.—Amounts appropriated to carry out section 5(i) of the Department of Transportation Act for fiscal year 1990 that are not applied for or that remain unobligated on January 1, 1991, are available to the Secretary for projects under this chapter.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 898; Pub. L. 103-429, §6(20), Oct. 31, 1994, 108 Stat.

4379; Pub. L. 104-287, §5(48), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 22108(a) .....         | 49 App.:1654(q).          | Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, §5(h), (q); added Feb. 5, 1976, Pub. L. 94-210, §803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95-607, §§102-106(a), 107-109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96-86, §115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97-35, §§1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97-468, §501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99-272, §4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101-213, §2(a), (c), 103 Stat. 1843, 1847, 1848; Sept. 3, 1992, Pub. L. 102-365, §14, 106 Stat. 980. |
| 22108(b) .....         | 49 App.:1654(h).          |   |
| 22108(c) .....         | (no source).              |   |

In subsection (a), the words “to carry out this chapter” are substituted for “for the purposes of this section” and “under this section” for clarity. The reference to fiscal years 1991 and 1992 is omitted as obsolete.

Subsection (c) is added because section 2(b)(1) of the Local Rail Service Reauthorizing Act (Public Law 101-213, 103 Stat. 1843) provided that amounts available for fiscal year 1990 to carry out section 5(i) of the Department of Transportation Act that were not applied for or remained unobligated are available to the Secretary in carrying out projects under this chapter, as in effect on October 1, 1990.

## PUB. L. 103-429

This amends 49:22108(a)(3) to clarify the restatement of 49 App.:1654(q) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 898).

## REFERENCES IN TEXT

Section 5(i) of the Department of Transportation Act, referred to in subsec. (c), is section 5(i) of Pub. L. 89-670, which was classified to section 1654(i) of former Title 49, Transportation, and was repealed and reenacted as section 22106(e) of Title 49, Transportation, by Pub. L. 103-272, §1(e), 7(b), July 5, 1994, 108 Stat. 898, 1379.

## AMENDMENTS

1996—Subsec. (b). Pub. L. 104-287 substituted “Committee on Transportation and Infrastructure” for “Committee on Energy and Commerce”.

1994—Subsec. (a)(3). Pub. L. 103-429 inserted “under this subsection” after “appropriated”.

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the 11th item on page 135 identifies a reporting provision which, as subsequently amended, is contained in subsec. (b) of this section), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

CHAPTER 223—LIGHT DENSITY RAIL LINE  
PILOT PROJECTS

Sec.  
22301. Light density rail line pilot projects.

**§ 22301. Light density rail line pilot projects**

(a) **GRANTS.**—The Secretary of Transportation may make grants to States that have State rail plans described in section 22102(1) and (2), to fund pilot projects that demonstrate the relationship of light density railroad services to the statutory responsibilities of the Secretary, including those under title 23.

(b) **LIMITATIONS.**—Grants under this section may be made only for pilot projects for making capital improvements to, and rehabilitating, publicly and privately owned rail line structures, and may not be used for providing operating assistance.

(c) **PRIVATE OWNER CONTRIBUTIONS.**—Grants made under this section for projects on privately owned rail line structures shall include contributions by the owner of the rail line structures, based on the benefit to those structures, as determined by the Secretary.

(d) **STUDY.**—The Secretary shall conduct a study of the pilot projects carried out with grant assistance under this section to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system. Not later than March 31, 2003, the Secretary shall report to Congress any recommendations the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section \$17,500,000 for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. Such funds shall remain available until expended.

(Added Pub. L. 105-178, title VII, § 7202(a), June 9, 1998, 112 Stat. 470.)

**PART C—PASSENGER TRANSPORTATION****CHAPTER 241—GENERAL**

|        |                                  |
|--------|----------------------------------|
| Sec.   |                                  |
| 24101. | Findings, purpose, and goals.    |
| 24102. | Definitions.                     |
| 24103. | Enforcement.                     |
| 24104. | Authorization of appropriations. |

**§ 24101. Findings, purpose, and goals**

(a) **FINDINGS.**—(1) Public convenience and necessity require that Amtrak, to the extent its budget allows, provide modern, cost-efficient, and energy-efficient intercity rail passenger transportation between crowded urban areas and in other areas of the United States.

(2) Rail passenger transportation can help alleviate overcrowding of airways and airports and on highways.

(3) A traveler in the United States should have the greatest possible choice of transportation most convenient to the needs of the traveler.

(4) A greater degree of cooperation is necessary among Amtrak, other rail carriers, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to Amtrak to achieve a performance level sufficient to justify expending public money.

(5) Modern and efficient commuter rail passenger transportation is important to the viability and well-being of major urban areas and to the energy conservation and self-sufficiency goals of the United States.

(6) As a rail passenger transportation entity, Amtrak should be available to operate commuter rail passenger transportation through its subsidiary, Amtrak Commuter, under contract with commuter authorities that do not provide the transportation themselves as part of the governmental function of the State.

(7) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation.

(8) Greater coordination between intercity and commuter rail passenger transportation is required.

(b) **PURPOSE.**—By using innovative operating and marketing concepts, Amtrak shall provide intercity and commuter rail passenger transportation that completely develops the potential of modern rail transportation to meet the intercity and commuter passenger transportation needs of the United States.

(c) **GOALS.**—Amtrak shall—

(1) use its best business judgment in acting to minimize United States Government subsidies, including—

(A) increasing fares;

(B) increasing revenue from the transportation of mail and express;

(C) reducing losses on food service;

(D) improving its contracts with operating rail carriers;

(E) reducing management costs; and

(F) increasing employee productivity;

(2) minimize Government subsidies by encouraging State, regional, and local governments and the private sector, separately or in combination, to share the cost of providing rail passenger transportation, including the cost of operating facilities;

(3) carry out strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient transportation;

(4) operate Amtrak trains, to the maximum extent feasible, to all station stops within 15 minutes of the time established in public timetables;

(5) develop transportation on rail corridors subsidized by States and private parties;

(6) implement schedules based on a system-wide average speed of at least 60 miles an hour that can be achieved with a degree of reliability and passenger comfort;

(7) encourage rail carriers to assist in improving intercity rail passenger transportation;

(8) improve generally the performance of Amtrak through comprehensive and systematic operational programs and employee incentives;

(9) carry out policies that ensure equitable access to the Northeast Corridor by intercity and commuter rail passenger transportation;

(10) coordinate the uses of the Northeast Corridor, particularly intercity and commuter rail passenger transportation; and

(11) maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property.

(d) MINIMIZING GOVERNMENT SUBSIDIES.—To carry out subsection (c)(11) of this section, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies. Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 899; Pub. L. 105–134, title I, §105(b), title II, §201, Dec. 2, 1997, 111 Stat. 2573, 2578.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                   | <i>Source (Statutes at Large)</i>  |
|------------------------|---|--|
| 24101(a) .....         | 45:501.                                     | Oct. 30, 1970, Pub. L. 91–518, §101, 84 Stat. 1328; Sept. 29, 1979, Pub. L. 96–73, §102, 93 Stat. 537; restated Aug. 13, 1981, Pub. L. 97–35, §1171, 95 Stat. 687. |
| 24101(b) .....         | 45:541 (2d sentence words after 1st comma). | Oct. 30, 1970, Pub. L. 91–518, §301 (2d sentence words after 1st comma), 84 Stat. 1330; Aug. 13, 1981, Pub. L. 97–35, §1188(a), 95 Stat. 699.                      |
| 24101(c) .....         | 45:501a (less (14) (last sentence)).        | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §102; added Sept. 29, 1979, Pub. L. 96–73, §103(a), 93 Stat. 537; Aug. 13, 1981, Pub. L. 97–35, §1172, 95 Stat. 688. |
| 24101(d) .....         | 45:501a(14) (last sentence).                |  |

In this part, the word “Amtrak” is substituted for “National Railroad Passenger Corporation”, and the words “Amtrak Commuter” are substituted for “Amtrak Commuter Services Corporation”, to reflect the more current and commonly used names of the entities. The words “rail transportation” are substituted for “rail service” and “rail services”, the word “transportation” is substituted for “service” where appropriate, and the word “authority” is substituted for “agency”, as being more appropriate and for consistency in the revised title and with other titles of the United States Code. The words “rail carrier” are substituted for “railroad” because of the definitions of “rail carrier” and “railroad” in 49:10102.

In subsection (a), the words “The Congress finds that the” and “The Congress further finds that” are omitted as surplus.

In subsection (a)(3), the words “greatest possible choice of” are substituted for “to the maximum extent feasible . . . the freedom to choose the mode of” to eliminate unnecessary words.

In subsection (c), before clause (1), the words “Amtrak shall” are substituted for “The Congress hereby establishes the following goals for Amtrak” to eliminate unnecessary words. The text of 45:501a(3) and (4) is omitted as executed. The text of 45:501a(9) is omitted as obsolete because there no longer are any technical assistance panels. In clause (2), the words “stations and other” are omitted as surplus. In clause (4), the words “for such operation” are omitted as surplus. In clause (10), the word “various” is omitted as surplus. In clause (11), the words “real property” are substituted for “real estate” for consistency in the revised title and with other titles of the Code.

#### REFERENCES IN TEXT

The Amtrak Reform and Accountability Act of 1997, referred to in subsec. (d), is Pub. L. 105–134, Dec. 2, 1997, 111 Stat. 2570. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 20101 of this title and Tables.

#### AMENDMENTS

1997—Subsec. (c)(2). Pub. L. 105–134, §105(b), inserted “, separately or in combination,” after “and the private sector”.

Subsec. (d). Pub. L. 105–134, §201, inserted at end “Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.”

#### AMTRAK FINDINGS

Pub. L. 105–134, §2, Dec. 2, 1997, 111 Stat. 2571, provided that: “The Congress finds that—

“(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

“(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

“(3) immediate action is required to improve Amtrak’s financial condition if Amtrak is to survive;

“(4) all of Amtrak’s stakeholders, including labor, management, and the Federal Government, must participate in efforts to reduce Amtrak’s costs and increase its revenues;

“(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

“(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

“(7) Amtrak’s management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

“(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

“(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies;

“(10) Amtrak’s Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—

“(A) a national passenger rail system; and

“(B) that system without Federal operating assistance; and

“(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.”

#### FAIR COMPETITIVE BIDDING FOR STATE-SUPPORTED INTERCITY RAIL SERVICE

Pub. L. 108–447, div. H, title I, §150, Dec. 8, 2004, 118 Stat. 3221, which provided that for the purpose of assisting State-supported intercity rail service, in order to demonstrate whether competition would provide higher quality rail passenger service at reasonable prices, the Secretary of Transportation, working with affected States, was to develop and implement a procedure for fair competitive bidding by Amtrak and non-



Amtrak operators for State-supported routes, was from the Consolidated Appropriations Act, 2005, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108-199, div. F, title I, §151, Jan. 23, 2004, 118 Stat. 303.

#### FISCAL ACCOUNTABILITY

Pub. L. 105-134, title II, §§202-205, Dec. 2, 1997, 111 Stat. 2578-2582, as amended by Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814, provided that:

##### “SEC. 202. INDEPENDENT ASSESSMENT.

“(a) INITIATION.—Not later than 15 days after the date of enactment of this Act [Dec. 2, 1997], the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak, and independent of the Department of Transportation, to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. The Department of Transportation, Office of Inspector General, shall approve the entity’s statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General’s Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.

“(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described in subsection (a), using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak’s funding needs.

“(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak’s—

“(1) cost allocation process and procedures;

“(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

“(3) Strategic Business Plan, including Amtrak’s projected expenses, capital needs, ridership, and revenue forecasts; and

“(4) assets and liabilities.

For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast Corridor and that required outside the Northeast Corridor, and shall include rolling stock requirements, including capital leases, ‘state of good repair’ requirements, and infrastructure improvements.

##### “(d) BIDDING PRACTICES.—

“(1) STUDY.—The independent assessment also shall determine whether, and to what extent, Amtrak has performed each year during the period from 1992 through 1996 services under contract at amounts less than the cost to Amtrak of performing such services with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation. For purposes of this clause, the cost to Amtrak of performing services shall be determined using generally accepted accounting principles for contracting. If identified, such contracts shall be detailed in the report of the independent assessment, as well as the methodology for preparation of bids to reflect Amtrak’s actual cost of performance.

“(2) REFORM.—If the independent assessment performed under this subparagraph reveals that Amtrak has performed services under contract for an amount less than the cost to Amtrak of performing such services, with respect to any activity other than the pro-

vision of intercity rail passenger transportation, or mail or express transportation, then Amtrak shall revise its methodology for preparation of bids to reflect its cost of performance.

“(e) DEADLINE.—The independent assessment shall be completed not later than 180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

##### “SEC. 203. AMTRAK REFORM COUNCIL.

“(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

##### “(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Council shall consist of 11 members, as follows:

“(A) The Secretary of Transportation.

“(B) Two individuals appointed by the President, of which—

“(i) one shall be a representative of a rail labor organization; and

“(ii) one shall be a representative of rail management.

“(C) Three individuals appointed by the Majority Leader of the United States Senate.

“(D) One individual appointed by the Minority Leader of the United States Senate.

“(E) Three individuals appointed by the Speaker of the United States House of Representatives.

“(F) One individual appointed by the Minority Leader of the United States House of Representatives.

##### “(2) APPOINTMENT CRITERIA.—

“(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act [Dec. 2, 1997].

“(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

“(i) may not be employees of the United States;

“(ii) may not be board members or employees of Amtrak;

“(iii) may not be representatives of rail labor organizations or rail management; and

“(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

“(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual’s predecessor was appointed.

“(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

“(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

“(B) 45 days after the date of enactment of this Act.

“(5) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

“(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

“(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in ac-

cordance with section[s] 5702 and 5703 of title 5, United States Code.

“(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

“(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

“(g) DUTIES.—

“(1) EVALUATION AND RECOMMENDATION.—The Council shall—

“(A) evaluate Amtrak’s performance; and

“(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

“(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council shall consider all relevant performance factors, including—

“(A) Amtrak’s operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

“(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

“(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

“(3) MONITOR WORK-RULE SAVINGS.—If, after January 1, 1997, Amtrak enters into an agreement involving work-rules intended to achieve savings with an organization representing Amtrak employees, then Amtrak shall report quarterly to the Council—

“(A) the savings realized as a result of the agreement; and

“(B) how the savings are allocated.

“(h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act [Dec. 2, 1997], the Council shall submit to the Congress a report that includes an assessment of—

“(1) Amtrak’s progress on the resolution of productivity issues; or

“(2) the status of those productivity issues, and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

“SEC. 204. SUNSET TRIGGER.

“(a) IN GENERAL.—If at any time more than 2 years after the date of enactment of this Act [Dec. 2, 1997] and implementation of the financial plan referred to in section 24104(d) [24101(d)] of title 49, United States Code, as amended by section 201 of this Act, the Amtrak Reform Council finds that—

“(1) Amtrak’s business performance will prevent it from meeting the financial goals set forth in section 24104(d) [24101(d)] of title 49, United States Code, as amended by section 201 of this Act; or

“(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act, then the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

“(b) FACTORS CONSIDERED.—In making a finding under subsection (a), the Council shall take into account—

“(1) Amtrak’s performance;

“(2) the findings of the independent assessment conducted under section 202;

“(3) the level of Federal funds made available for carrying out the financial plan referred to in section 24104(d) [24101(d)] of title 49, United States Code, as amended by section 201 of this Act; and

“(4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

“(c) ACTION PLAN.—Within 90 days after the Council makes a finding under subsection (a)—

“(1) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and

“(2) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the Government Accountability Office for accuracy and reasonableness.

“SEC. 205. SENATE PROCEDURE FOR CONSIDERATION OF RESTRUCTURING AND LIQUIDATION PLANS.

“(a) IN GENERAL.—If, within 90 days (not counting any day on which either House is not in session) after a restructuring plan is submitted to the House of Representatives and the Senate by the Amtrak Reform Council under section 204 of this Act, an implementing Act with respect to a restructuring plan (without regard to whether it is the plan submitted) has not been passed by the Congress, then a liquidation disapproval resolution shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The liquidation disapproval resolution shall be held at the desk at the request of the Presiding Officer.

“(b) CONSIDERATION IN THE SENATE.—

“(1) REFERRAL AND REPORTING.—A liquidation disapproval resolution introduced in the Senate shall be placed directly and immediately on the Calendar.

“(2) IMPLEMENTING RESOLUTION FROM HOUSE.—When the Senate receives from the House of Representatives a liquidation disapproval resolution, the resolution shall not be referred to committee and shall be placed on the Calendar.

“(3) CONSIDERATION OF SINGLE LIQUIDATION DISAPPROVAL RESOLUTION.—After the Senate has proceeded to the consideration of a liquidation disapproval resolution under this subsection, then no other liquidation disapproval resolution originating in that same House shall be subject to the procedures set forth in this section.

“(4) AMENDMENTS.—No amendment to the resolution is in order except an amendment that is relevant to liquidation of Amtrak. Consideration of the resolution for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except for perfecting amendments.

“(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a liquidation disapproval resolution under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

“(6) LIMIT ON CONSIDERATION.—

“(A) After no more than 20 hours of consideration of a liquidation disapproval resolution, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or table.

“(B) The time for debate on the liquidation disapproval resolution shall be equally divided be-

tween the Majority Leader and the Minority Leader or their designees.

“(7) DEBATE OF AMENDMENTS.—Debate on any amendment to a liquidation disapproval resolution shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

“(8) NO MOTION TO RECOMMIT.—A motion to recommit a liquidation disapproval resolution shall not be in order.

“(9) DISPOSITION OF SENATE RESOLUTION.—If the Senate has read for the third time a liquidation disapproval resolution that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a liquidation disapproval resolution for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate liquidation disapproval resolution, agree to the Senate amendment, and vote on final disposition of the House liquidation disapproval resolution, all without any intervening action or debate.

“(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a liquidation disapproval resolution shall be limited to not more than 4 hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

“(c) CONSIDERATION IN CONFERENCE.—

“(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a liquidation disapproval resolution passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

“(2) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a liquidation disapproval resolution shall be limited to not more than 4 hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

“(d) DEFINITIONS.—For purposes of this section—

“(1) LIQUIDATION DISAPPROVAL RESOLUTION.—The term ‘liquidation disapproval resolution’ means only a resolution of either House of Congress which is introduced as provided in subsection (a) with respect to the liquidation of Amtrak.

“(2) RESTRUCTURING PLAN.—The term ‘restructuring plan’ means a plan to provide for a restructured and rationalized national intercity rail passenger transportation system.

“(e) RULES OF SENATE.—This section is enacted by the Congress—

“(1) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a liquidation disapproval resolution; and they supersede other rules only to the extent that they are inconsistent therewith; and

“(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.”

#### INTERSTATE RAIL COMPACTS

Pub. L. 105-134, title IV, § 410, Dec. 2, 1997, 111 Stat. 2587, provided that:

“(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

“(1) retaining an existing service or commencing a new service;

“(2) assembling rights-of-way; and

“(3) performing capital improvements, including—

“(A) the construction and rehabilitation of maintenance facilities;

“(B) the purchase of locomotives; and

“(C) operational improvements, including communications, signals, and other systems.

“(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

“(1) accept contributions from a unit of State or local government or a person;

“(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for Amtrak);

“(3) on such terms and conditions as the States consider advisable—

“(A) borrow money on a short-term basis and issue notes for the borrowing; and

“(B) issue bonds; and

“(4) obtain financing by other means permitted under Federal or State law.”

#### § 24102. Definitions

In this part—

(1) “auto-ferry transportation” means intercity rail passenger transportation—

(A) of automobiles or recreational vehicles and their occupants; and

(B) when space is available, of used unoccupied vehicles.

(2) “basic system” means the system of intercity rail passenger transportation designated by the Secretary of Transportation under section 4 of the Amtrak Improvement Act of 1978 and approved by Congress, and transportation required to be provided under section 24705(a)<sup>1</sup> of this title and section 4(g) of the Act, including changes in the system or transportation that Amtrak makes using the route and service criteria.

(3) “commuter authority” means a State, local, or regional entity established to provide, or make a contract providing for, commuter rail passenger transportation.

(4) “commuter rail passenger transportation” means short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple-ride, and commuter tickets and morning and evening peak period operations.

(5) “intercity rail passenger transportation” means rail passenger transportation, except commuter rail passenger transportation.

(6) “Northeast Corridor” means Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.

(7) “rail carrier” means a person, including a unit of State or local government, providing rail transportation for compensation.

<sup>1</sup> See References in Text note below.

(8) “rate” means a rate, fare, or charge for rail transportation.

(9) “regional transportation authority” means an entity established to provide passenger transportation in a region.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 900; Pub. L. 105–134, title IV, §407, Dec. 2, 1997, 111 Stat. 2586.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                      | Source (Statutes at Large)   |
|-----------------|---|--|
| 24102(1) .....  | 45:502(1).                              | Oct. 30, 1970, Pub. L. 91–518, §103(1), 84 Stat. 1328; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 538.  |
|                 | 45:502(2).                              | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §103(2); added Aug. 13, 1981, Pub. L. 97–35, §1173(2), 95 Stat. 689.   |
|                 | 45:502(3).                              | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §103(3); added Nov. 3, 1973, Pub. L. 93–146, §2(2), 87 Stat. 548; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 538; Aug. 13, 1981, Pub. L. 97–35, §1173(1), 95 Stat. 689; Apr. 7, 1986, Pub. L. 99–272, §4012, 100 Stat. 109. |
|                 | 45:502(6), (7), (10), (12), (14), (18). | Oct. 30, 1970, Pub. L. 91–518, §103(4)–(7), (10), (12), (14)–(18), 84 Stat. 1328; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 538, 539; Aug. 13, 1981, Pub. L. 97–35, §1173(1), 95 Stat. 689; Oct. 27, 1992, Pub. L. 102–533, §8(1), 106 Stat. 3519.                       |
| 24102(2) .....  | 45:502(4).                              |  |
| 24102(3) .....  | 45:502(5).                              |  |
| 24102(4) .....  | 45:502(8).                              | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §103(8), (9); added Aug. 13, 1981, Pub. L. 97–35, §1173(3), 95 Stat. 689.  |
| 24102(5) .....  | 45:502(9).                              |  |
| 24102(6) .....  | 45:502(11).                             | Oct. 30, 1970, Pub. L. 91–518, §103(11), 84 Stat. 1328; Nov. 3, 1973, Pub. L. 93–146, §2(1), 87 Stat. 548; restated Sept. 29, 1979, Pub. L. 96–73, §§ 103(a), 104, 93 Stat. 537, 539; Aug. 13, 1981, Pub. L. 97–35, §1173(1), (4), 95 Stat. 689.   |
| 24102(7) .....  | 45:502(13).                             | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §103(13); added Oct. 27, 1992, Pub. L. 102–533, §8(2), 106 Stat. 3519.   |
|                 | 45:851(c).                              | Feb. 5, 1976, Pub. L. 94–210, §701(c), 90 Stat. 120.   |
| 24102(8) .....  | 45:502(14).                             |  |
| 24102(9) .....  | (no source).                            |  |
| 24102(10) ..... | 45:502(15).                             |  |
| 24102(11) ..... | 45:502(16).                             |  |

In clause (1), before subclause (A), the text of 45:502(1), (2), and (10) is omitted as surplus. The text of 45:502(6), (7), (12), (14), and (18) is omitted because the complete names of the Performance Evaluation Center, Interstate Commerce Commission, Railroad Safety System Program, Technical Assistance Panel, and Secretary of Transportation are used the first time the terms appear in a section. The words “characterized by transportation” are omitted as surplus.

In clause (3), the text of 45:502(5)(A) and the words “on and after October 1, 1979” are omitted as obsolete. Reference to 45:564(e) is omitted as obsolete because 45:564(e) was repealed by section 1183(d) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 697).

In clauses (4) and (10), the words “authority, corporation, or other” are omitted as surplus.

In clause (4), the words “and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of

Transportation the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating” are omitted as surplus.

In clause (5), the words “whether within or across the geographical boundaries of a State” are omitted as surplus.

Clause (9) is added to eliminate repetition of the words “fares or charges” throughout this part.

#### REFERENCES IN TEXT

Section 4 of the Amtrak Improvement Act of 1978, referred to in par. (2), is section 4 of Pub. L. 95–421, which was set out as a note under section 521 of Title 45, Railroads, prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379.

Section 24705 of this title, referred to in par. (2), was repealed by Pub. L. 105–134, title I, §104, Dec. 2, 1997, 111 Stat. 2573.

#### AMENDMENTS

1997—Pars. (2) to (6). Pub. L. 105–134, §407(1), (2), redesignated pars. (3) to (7) as (2) to (6), respectively, and struck out former par. (2) which read as follows: “‘avoidable loss’ means the avoidable costs of providing rail passenger transportation, less revenue attributable to the transportation, as determined by the Interstate Commerce Commission under section 553 of title 5.”

Par. (7). Pub. L. 105–134, §407(2), (3), redesignated par. (8) as (7) and inserted “, including a unit of State or local government,” after “means a person”. Former par. (7) redesignated (6).

Pars. (8) to (10). Pub. L. 105–134, §407(2), redesignated pars. (8) to (10) as (7) to (9), respectively.

Par. (11). Pub. L. 105–134, §407(1), struck out par. (11) which read as follows: “‘route and service criteria’ means the criteria and procedures for making route and service decisions established under section 404(c)(1)–(3)(A) of the Rail Passenger Service Act.”

#### § 24103. Enforcement

(a) GENERAL.—(1) Except as provided in paragraph (2) of this subsection, only the Attorney General may bring a civil action for equitable relief in a district court of the United States when Amtrak or a rail carrier—

(A) engages in or adheres to an action, practice, or policy inconsistent with this part;

(B) obstructs or interferes with an activity authorized under this part;

(C) refuses, fails, or neglects to discharge its duties and responsibilities under this part; or

(D) threatens—

(i) to engage in or adhere to an action, practice, or policy inconsistent with this part;

(ii) to obstruct or interfere with an activity authorized by this part; or

(iii) to refuse, fail, or neglect to discharge its duties and responsibilities under this part.

(2) An employee affected by any conduct or threat referred to in paragraph (1) of this subsection, or an authorized employee representative, may bring the civil action if the conduct or threat involves a labor agreement.

(b) REVIEW OF DISCONTINUANCE OR REDUCTION.—A discontinuance of a route, a train, or transportation, or a reduction in the frequency of transportation, by Amtrak is reviewable only in a civil action for equitable relief brought by the Attorney General.

(c) VENUE.—Except as otherwise prohibited by law, a civil action under this section may be brought in the judicial district in which Amtrak or the rail carrier resides or is found.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 901.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)  | Source (Statutes at Large)  |
|-----------------|---|---|
| 24103(a) .....  | 45:547(a) (1st sentence less words between 13th–15th commas). | Oct. 30, 1970, Pub. L. 91–518, §307(a) (1st sentence), (b), 84 Stat. 1333.  |
| 24103(b) .....  | 45:547(a) (last sentence).                                    | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §307(a) (last sentence); added Aug. 13, 1981, Pub. L. 97–35, §1179, 95 Stat. 693. |
| 24103(c) .....  | 45:547(a) (1st sentence words between 13th–15th commas), (b). |   |

In subsections (a) and (b), the words “may bring a civil action”, “may bring the civil action”, and “in a civil action brought by” are substituted for “upon petition of” and “on petition of” for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (a)(1), before clause (A), the words “Except as provided in paragraph (2) of this subsection” are added for clarity. The word “only” is added for clarity. See *National Railroad Passenger Corp. et al. v. National Association of Railroad Passengers*, 414 U.S. 453 (1974). In clauses (A) and (D)(i), the words “the policies and purposes of” are omitted as surplus.

In subsection (a)(2), the word “duly” is omitted as surplus.

In subsection (b), the words “in any court” are omitted as surplus.

Subsection (c) is substituted for 45:547(a) (1st sentence words between 13th–15th commas) for consistency in the revised title and with other titles of the United States Code. The text of 45:547(b) is omitted as surplus.

#### § 24104. Authorization of appropriations

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

- (1) \$1,138,000,000 for fiscal year 1998;
- (2) \$1,058,000,000 for fiscal year 1999;
- (3) \$1,023,000,000 for fiscal year 2000;
- (4) \$989,000,000 for fiscal year 2001; and
- (5) \$955,000,000 for fiscal year 2002,

for the benefit of Amtrak for capital expenditures under chapters 243, 247, and 249 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.

(b) OPERATING EXPENSES.—(1) Not more than \$381,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1993, and September 30, 1994, for the benefit of Amtrak for operating expenses. Not more than 5 percent of the amounts appropriated for each fiscal year shall be used to pay operating expenses under section 24704<sup>1</sup> of this

title for transportation in operation on September 30, 1992.

(2)(A) Not more than the following amounts may be appropriated to the Secretary for the benefit of Amtrak for operating losses under section 24704<sup>1</sup> of this title for transportation beginning after September 30, 1992:

- (i) \$7,500,000 for the fiscal year ending September 30, 1993.
- (ii) \$9,500,000 for the fiscal year ending September 30, 1994.

(B) The expenditure by Amtrak of an amount appropriated under subparagraph (A) of this paragraph is deemed not to be an operating expense when calculating the revenue-to-operating expense ratio of Amtrak.

(c) MANDATORY PAYMENTS.—(1) Not more than \$150,000,000 for the fiscal year ending September 30, 1993, and amounts that may be necessary for the fiscal year ending September 30, 1994, may be appropriated to the Secretary to pay—

(A) tax liabilities under section 3221 of the Internal Revenue Code of 1986 (26 U.S.C. 3221) due in those fiscal years that are more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries;

(B) obligations of Amtrak under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in those fiscal years that are more than obligations of Amtrak calculated on an experience-related basis; and

(C) obligations of Amtrak due under section 3321 of the Code (26 U.S.C. 3321).

(2) Amounts appropriated under this subsection are not a United States Government subsidy of Amtrak.

(d) PAYMENT TO AMTRAK.—Amounts appropriated under this section shall be paid to Amtrak under the budget request of the Secretary as approved or modified by Congress when the amounts are appropriated. A payment may not be made more frequently than once every 90 days, unless Amtrak, for good cause, requests more frequent payment before a 90-day period ends. In each fiscal year in which amounts are authorized to be appropriated under this section, amounts appropriated shall be paid to Amtrak as follows:

- (1) 50 percent on October 1.
- (2) 25 percent on January 1.
- (3) 25 percent on April 1.

(e) AVAILABILITY OF AMOUNTS AND EARLY APPROPRIATIONS.—(1) Amounts appropriated under this section remain available until expended.

(2) Amounts for capital acquisitions and improvements may be appropriated in a fiscal year before the fiscal year in which the amounts will be obligated.

(f) LIMITATIONS ON USE.—Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail passenger or rail freight transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 902; Pub. L. 105–134, title III, §301(a), Dec. 2, 1997, 111 Stat. 2585.)

<sup>1</sup> See References in Text note below.

## HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                   | Source (Statutes at Large)  |
|-----------------|--------------------------------------|---|
| 24104(a) .....  | 45:601(a).                           | Oct. 30, 1970, Pub. L. 91-518, § 601, 84 Stat. 1338; June 22, 1972, Pub. L. 92-316, § 9, 86 Stat. 231; Nov. 3, 1973, Pub. L. 93-146, § 12, 87 Stat. 553; Oct. 28, 1974, Pub. L. 93-496, § 8, 88 Stat. 1530; May 26, 1975, Pub. L. 94-25, § 10, 89 Stat. 92; Oct. 19, 1976, Pub. L. 94-555, § 102(a), (b), 90 Stat. 2613; Oct. 5, 1978, Pub. L. 95-421, §§ 2(a), (b)(1), 3, 92 Stat. 923; Sept. 29, 1979, Pub. L. 96-73, § 122(a), (b)(1), 93 Stat. 550; May 30, 1980, Pub. L. 96-254, §§ 208, 211, 94 Stat. 414, 415; Aug. 13, 1981, Pub. L. 97-35, §§ 1138, 1139(a), 1185, 95 Stat. 652, 697; Jan. 14, 1983, Pub. L. 97-468, § 302(c), 96 Stat. 2550; Apr. 7, 1986, Pub. L. 99-272, § 4002, 100 Stat. 106; July 6, 1990, Pub. L. 101-322, § 2, 104 Stat. 295; restated Oct. 27, 1992, Pub. L. 102-533, § 7(a), 106 Stat. 3517. |
| 24104(b) .....  | 45:601(b).                           |   |
| 24104(c) .....  | 45:601(c).                           |   |
| 24104(d) .....  | 45:601(d) (3d, last sentences), (e). |   |
| 24104(e)(1) ..  | 45:601(d) (2d sentence).             |   |
| 24104(e)(2) ..  | 45:601(d) (1st sentence).            |   |
| 24104(f) .....  | 45:854(b)(1) (related to 45:601).    | Feb. 5, 1976, Pub. L. 94-210, § 704(b)(1) (related to § 601), 90 Stat. 123; Jan. 14, 1983, Pub. L. 97-468, § 301(4)(A), 96 Stat. 2549.  |

In subsection (a)(2), before clause (A), the words “In addition to amounts that may be appropriated under section 24909 of this title” are added for clarity.

In subsection (a)(3)(B) and (C), the words “or States” are omitted because of 1.1. Before each clause (i), the words “Except as provided in clause (ii)” are omitted as surplus.

In subsection (d), before clause (1), the words “by the Secretary” and “for expenditure by it” are omitted as surplus.

In subsection (e)(2), the words “Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated” are omitted as surplus.

## REFERENCES IN TEXT

The enactment of the Amtrak Reform and Accountability Act of 1997, referred to in subsec. (a), probably means the date of enactment of Pub. L. 105-134, which was approved Dec. 2, 1997.

Section 3221 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 3221 of Title 26, Internal Revenue Code.

Section 24704 of this title, referred to in subsec. (b), was repealed by Pub. L. 105-134, title I, § 105(a), Dec. 2, 1997, 111 Stat. 2573.

## AMENDMENTS

1997—Subsec. (a). Pub. L. 105-134 amended heading and text of subsec. (a) generally. Prior to amendment, subsec. (a) related to capital acquisition and corridor development.

## LIMITATION ON USE OF TAX REFUND

Pub. L. 105-134, title II, § 209, Dec. 2, 1997, 111 Stat. 2584, provided that:

“(a) IN GENERAL.—Amtrak may not use any amount received under section 977 of the Taxpayer Relief Act of 1997 [Pub. L. 105-34, 26 U.S.C. 172 note]—

“(1) for any purpose other than making payments to non-Amtrak States (pursuant to section 977(c) of that Act), or the financing of qualified expenses (as

that term is defined in section 977(e)(1) of that Act); or

“(2) to offset other amounts used for any purpose other than the financing of such expenses.

“(b) REPORT BY ARC.—The Amtrak Reform Council shall report quarterly to the Congress on the use of amounts received by Amtrak under section 977 of the Taxpayer Relief Act of 1997.”

## REFORM BOARD

Pub. L. 105-134, title IV, § 411(b), Dec. 2, 1997, 111 Stat. 2589, provided that: “If the Reform Board has not assumed the responsibilities of the Board of Directors of Amtrak before July 1, 1998, all provisions authorizing appropriations under the amendments made by section 301(a) of this Act [amending this section] for a fiscal year after fiscal year 1998 shall cease to be effective. The preceding sentence shall have no effect on funds provided to Amtrak pursuant to section 977 of the Taxpayer Relief Act of 1997 [Pub. L. 105-34, 26 U.S.C. 172 note].”

## CHAPTER 243—AMTRAK

Sec.

|          |   |
|----------|---|
| 24301.   | Status and applicable laws.                         |
| 24302.   | Board of directors. <sup>1</sup>                    |
| 24303.   | Officers.   |
| 24304.   | Employee stock ownership plans.                     |
| 24305.   | General authority.                                  |
| 24306.   | Mail, express, and auto-ferry transportation.       |
| 24307.   | Special transportation.                             |
| 24308.   | Use of facilities and providing services to Amtrak. |
| 24309.   | Retaining and maintaining facilities.               |
| [24310.] | Repealed.]  |
| 24311.   | Acquiring interests in property by eminent domain.  |
| 24312.   | Labor standards.                                    |
| 24313.   | Rail safety system program.                         |
| [24314.] | Repealed.]  |
| 24315.   | Reports and audits.                                 |

## AMENDMENTS

1997—Pub. L. 105-134, title IV, §§ 403, 404, 415(a)(2), Dec. 2, 1997, 111 Stat. 2585, 2586, 2590, substituted “Employee stock ownership plans” for “Capitalization” in item 24304 and struck out item 24310 “Assistance for upgrading facilities” and item 24314 “Demonstration of new technology”.

## § 24301. Status and applicable laws

(a) STATUS.—Amtrak—

(1) is a railroad carrier under section 20102(2) and chapters 261 and 281 of this title;

(2) shall be operated and managed as a for-profit corporation; and

(3) is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31.

(b) PRINCIPAL OFFICE AND PLACE OF BUSINESS.—The principal office and place of business of Amtrak are in the District of Columbia. Amtrak is qualified to do business in each State in which Amtrak carries out an activity authorized under this part. Amtrak shall accept service of process by certified mail addressed to the secretary of Amtrak at its principal office and place of business. Amtrak is a citizen only of the District of Columbia when deciding original jurisdiction of the district courts of the United States in a civil action.

(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except

<sup>1</sup> Section catchline amended by Pub. L. 105-134 without corresponding amendment of chapter analysis.

for sections 11123, 11301, 11322(a), 11502, and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.

(d) APPLICATION OF SAFETY AND EMPLOYEE RELATIONS LAWS AND REGULATIONS.—Laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier subject to part A of subtitle IV of this title apply to Amtrak.

(e) APPLICATION OF CERTAIN ADDITIONAL LAWS.—Section 552 of title 5, this part, and, to the extent consistent with this part, the District of Columbia Business Corporation Act (D.C. Code §29-301 et seq.) apply to Amtrak. Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.

(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.

(g) NONAPPLICATION OF RATE, ROUTE, AND SERVICE LAWS.—A State or other law related to rates, routes, or service does not apply to Amtrak in connection with rail passenger transportation.

(h) NONAPPLICATION OF PAY PERIOD LAWS.—A State or local law related to pay periods or days for payment of employees does not apply to Amtrak. Except when otherwise provided under a collective bargaining agreement, an employee of Amtrak shall be paid at least as frequently as the employee was paid on October 1, 1979.

(i) PREEMPTION RELATED TO EMPLOYEE WORK REQUIREMENTS.—A State may not adopt or continue in force a law, rule, regulation, order, or standard requiring Amtrak to employ a specified number of individuals to perform a particular task, function, or operation.

(j) NONAPPLICATION OF LAWS ON JOINT USE OR OPERATION OF FACILITIES AND EQUIPMENT.—Prohibitions of law applicable to an agreement for the joint use or operation of facilities and equipment necessary to provide quick and efficient rail passenger transportation do not apply to a person making an agreement with Amtrak to the extent necessary to allow the person to make and carry out obligations under the agreement.

(k) EXEMPTION FROM ADDITIONAL TAXES.—(1) In this subsection—

(A) “additional tax” means a tax or fee—

(i) on the acquisition, improvement, ownership, or operation of personal property by Amtrak; and

(ii) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made, or the operation of those improvements, by Amtrak.

(B) “Amtrak” includes a rail carrier subsidiary of Amtrak and a lessor or lessee of Amtrak or one of its rail carrier subsidiaries.

(2) Amtrak is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way material or structures used in providing rail passenger transportation, even if that use is indirect.

(l) EXEMPTION FROM TAXES LEVIED AFTER SEPTEMBER 30, 1981.—(1) IN GENERAL.—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are exempt from a tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom after September 30, 1981. In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997.

(2) The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this subsection and may grant equitable or declaratory relief requested by Amtrak.

(m) WASTE DISPOSAL.—(1) An intercity rail passenger car manufactured after October 14, 1990, shall be built to provide for the discharge of human waste only at a servicing facility. Amtrak shall retrofit each of its intercity rail passenger cars that was manufactured after May 1, 1971, and before October 15, 1990, with a human waste disposal system that provides for the discharge of human waste only at a servicing facility. Subject to appropriations—

(A) the retrofit program shall be completed not later than October 15, 2001; and

(B) a car that does not provide for the discharge of human waste only at a servicing facility shall be removed from service after that date.

(2) Section 361 of the Public Health Service Act (42 U.S.C. 264) and other laws of the United States, States, and local governments do not apply to waste disposal from rail carrier vehicles operated in intercity rail passenger transportation. The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this paragraph and may grant equitable or declaratory relief requested by Amtrak.

(n) RAIL TRANSPORTATION TREATED EQUALLY.—When authorizing transportation in the continental United States for an officer, employee, or member of the uniformed services of a department, agency, or instrumentality of the Government, the head of that department, agency, or instrumentality shall consider rail transportation (including transportation by extra-fare trains) the same as transportation by another authorized mode. The Administrator of General Services shall include Amtrak in the contract

air program of the Administrator in markets in which transportation provided by Amtrak is competitive with other carriers on fares and total trip times.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 904; Pub. L. 104-88, title III, §308(g), Dec. 29, 1995, 109 Stat. 947; Pub. L. 105-134, title I, §§106(b), 110(a), title II, §208, title IV, §§401, 402, 415(d)(1), Dec. 2, 1997, 111 Stat. 2573, 2574, 2584, 2585, 2590; Pub. L. 108-199, div. F, title I, §150(2), Jan. 23, 2004, 118 Stat. 303.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>  | <i>Source (Statutes at Large)</i>  |
|------------------------|--|--|
| 24301(a) .....         | 45:541 (1st sentence).   | Oct. 30, 1970, Pub. L. 91-518, §301 (1st, 4th, last sentences), 84 Stat. 1330.   |
|                        | 45:541 (2d sentence words before 1st comma).   | Oct. 30, 1970, Pub. L. 91-518, §301 (2d sentence words before 1st comma), 84 Stat. 1330; Oct. 5, 1978, Pub. L. 95-421, §11, 92 Stat. 928.  |
|                        | 45:541 (3d sentence).  | Oct. 30, 1970, Pub. L. 91-518, §301 (3d sentence), 84 Stat. 1330; June 22, 1988, Pub. L. 100-342, §18(a), 102 Stat. 636.   |
|                        | 45:541 (last sentence).  |  |
|                        | 45:546(a) (words after “The Corporation” and before “and shall be subject to”).      | Oct. 30, 1970, Pub. L. 91-518, §306(a), 84 Stat. 1332; June 22, 1972, Pub. L. 92-316, §3(a), 86 Stat. 228; Sept. 29, 1979, Pub. L. 96-73, §112(a), 93 Stat. 541; Apr. 7, 1986, Pub. L. 99-272, §4015, 100 Stat. 110. |
| 24301(b) .....         | 45:546(m).   | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §306(m); added Sept. 29, 1979, Pub. L. 96-73, §112(c), 93 Stat. 541; Apr. 7, 1986, Pub. L. 99-272, §4013, 100 Stat. 109.   |
| 24301(c)(1), (2)(A).   | 45:546(a) (less words after “The Corporation” and before “and shall be subject to”). |  |
| 24301(c) (2)(B).       | 45:546a.   | Oct. 5, 1978, Pub. L. 95-421, §7, 92 Stat. 927.  |
| 24301(d) .....         | 45:546(b).   | Oct. 30, 1970, Pub. L. 91-518, §§305(a) (last sentence), 306(b)-(e), 84 Stat. 1332, 1333.  |
| 24301(e) .....         | 45:541 (4th sentence).   |  |
|                        | 45:545(a) (last sentence).   |  |
|                        | 45:545(e)(8).  | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §305(e)(8); added Nov. 3, 1973, Pub. L. 93-146, §6, 87 Stat. 551.  |
|                        | 45:546(g).   | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §306(g); added June 22, 1972, Pub. L. 92-316, §3(b), 86 Stat. 228.   |
| 24301(f) .....         | 45:546(d).   |  |
| 24301(g) .....         | 45:546(c).   |  |
| 24301(h) .....         | 45:546(l).   | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §306(l); added Sept. 29, 1979, Pub. L. 96-73, §112(c), 93 Stat. 541.   |
| 24301(i) .....         | 45:797j (words “, the National Railroad Passenger Corporation”).                     | Jan. 2, 1974, Pub. L. 93-236, 87 Stat. 985, §711 (words “, the National Railroad Passenger Corporation.”); added Aug. 13, 1981, Pub. L. 97-35, §1143(a), 95 Stat. 667.   |
| 24301(j) .....         | 45:546(e).   |  |
| 24301(k) .....         | 45:546(n).   | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §306(n); added Aug. 13, 1981, Pub. L. 97-35, §1178, 95 Stat. 692; restated Oct. 27, 1992, Pub. L. 102-533, §6, 106 Stat. 3517.   |
| 24301(l) .....         | 45:546b.   | Sept. 10, 1982, Pub. L. 97-257, §107 (par. under heading “Grants to the National Railroad Passenger Corporation”), 96 Stat. 852.   |

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 24301(m) .....         | 45:546(i).                | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §306(i); added Feb. 5, 1976, Pub. L. 94-210, §706(e), 90 Stat. 124; Oct. 19, 1976, Pub. L. 94-555, §105, 90 Stat. 2615; May 30, 1980, Pub. L. 96-254, §206(a), 94 Stat. 412; Nov. 16, 1990, Pub. L. 101-610, §601(a), 104 Stat. 3185. |
| 24301(n) .....         | 45:546(f).                | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §306(f); added June 22, 1972, Pub. L. 92-316, §3(b), 86 Stat. 228; Apr. 7, 1986, Pub. L. 99-272, §4004, 100 Stat. 107.  |

In subsection (a), before clause (1), the text of 45:541 (1st sentence) is omitted as executed. The text of 45:541 (last sentence) is omitted as surplus. In clause (1), the words “rail carrier” are substituted for “common carrier by railroad” because of 49:10102. In clause (3), the words “department, agency, or instrumentality” are substituted for “agency, instrumentality, authority, or entity, or establishment” for consistency in the revised title and with other titles of the United States Code. The word “instrumentality” includes entities, authorities, establishments, and any other organizational unit of the United States Government that is not a department or agency.

In subsection (b), the words “In connection with the performance of such activities” and “to which the Corporation is a party” are omitted as surplus.

In subsection (c)(1)(B), the words “whether by track-age rights or otherwise” are omitted as surplus.

In subsection (c)(2)(B), the words “adversely affected” are substituted for “aggrieved” for consistency in the revised title and with other titles of the Code.

In subsection (d), the word “same” is omitted as surplus.

In subsection (e), the text of 45:545(a) (last sentence) and (e)(8) is omitted as surplus.

In subsection (f), the words “the place” are omitted as surplus.

In subsection (h), the word “applicable” is omitted as surplus.

In subsection (j), the words “existing”, “including the antitrust laws of the United States”, and “contracts . . . leases” are omitted as surplus.

In subsection (k)(2), the words “of funds” are omitted as surplus.

In subsection (l)(1), the words “Notwithstanding any other provision of law”, “other”, “including such taxes and fees levied after September 30, 1982”, and “notwithstanding any provision of law” are omitted as surplus. The text of 45:546b (2d sentence) is omitted as executed.

In subsection (l)(2), the words “Notwithstanding the provision of section 1341 of title 28” are omitted as surplus.

In subsection (m)(1), before clause (A), the word “New” is omitted as surplus.

In subsection (m)(2), the word “vehicles” is substituted for “conveyances” for clarity.

In subsection (n), the words “uniformed services” are substituted for “Armed Forces or commissioned services” for consistency in the revised title and with other titles of the Code.

## REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (c), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (c), is act June 25, 1938, ch. 680, 52 Stat.



1094, as amended, which is classified principally to chapter 11 (§351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

The Railroad Retirement Tax Act, referred to in subsec. (c), is act Aug. 16, 1954, ch. 736, §§3201, 3202, 3211, 3212, 3221, and 3231 to 3233, 68A Stat. 431, as amended, which is classified generally to chapter 22 (§3201 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3233 of Title 26 and Tables.

The District of Columbia Business Corporation Act, referred to in subsec. (e), is act June 8, 1954, ch. 269, 68 Stat. 179, as amended, which is not classified to the Code.

#### AMENDMENTS

2004—Subsec. (c). Pub. L. 108-199 inserted “11123,” after “except for sections”.

1997—Subsec. (a)(1). Pub. L. 105-134, §401(1), substituted “railroad carrier under section 20102(2) and chapters 261 and 281” for “rail carrier under section 10102”.

Subsec. (a)(3). Pub. L. 105-134, §415(d)(1), inserted “, and shall not be subject to title 31” after “United States Government”.

Subsec. (c). Pub. L. 105-134, §401(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

“(1) Part A of subtitle IV of this title applies to Amtrak, except for provisions related to the—

“(A) regulation of rates;

“(B) abandonment or extension of rail lines used only for passenger transportation and the abandonment or extension of operations over those lines;

“(C) regulation of routes and service;

“(D) discontinuance or change of rail passenger transportation operations; and

“(E) issuance of securities or the assumption of an obligation or liability related to the securities of others.

“(2) Notwithstanding this subsection—

“(A) section 10721 of this title applies to Amtrak; and

“(B) on application of an adversely affected motor carrier, the Surface Transportation Board under part A of subtitle IV of this title may hear a complaint about an unfair or predatory rate or marketing practice of Amtrak for a route or service operating at a loss.”

Subsec. (e). Pub. L. 105-134, §110(a), inserted at end “Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.”

Subsec. (f). Pub. L. 105-134, §106(b), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “The laws of the District of Columbia govern leases and contracts of Amtrak, regardless of where they are executed.”

Subsec. (l)(1). Pub. L. 105-134, §208, inserted heading and substituted in text “Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are” for “Amtrak or a rail carrier subsidiary of Amtrak is”, “tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom” for “tax or fee imposed by a State, a political subdivision of a State, or a local taxing authority and levied on it”, and “In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997.” for “However, Amtrak is not exempt under this subsection from a tax or fee that it was required to pay as of September 10, 1982.”

Subsec. (m)(1)(A). Pub. L. 105-134, §402, substituted “2001” for “1996”.

1995—Subsec. (c)(1). Pub. L. 104-88, §308(g)(1)(A), substituted “Part A of subtitle IV” for “Subtitle IV”.

Subsec. (c)(2)(A). Pub. L. 104-88, §308(g)(1)(B), substituted “section 10721 of this title applies” for “sections 10721-10724 of this title apply”.

Subsec. (c)(2)(B). Pub. L. 104-88, §308(g)(1)(C), substituted “Transportation Board under part A of subtitle IV” for “Interstate Commerce Commission under any provision of subtitle IV of this title applicable to a carrier subject to subchapter I of chapter 105”.

Subsec. (d). Pub. L. 104-88, §308(g)(2), substituted “rail carrier subject to part A of subtitle IV” for “common carrier subject to subchapter I of chapter 105”.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.

#### REGULATIONS

Pub. L. 101-610, title VI, §601(d), (e), Nov. 16, 1990, 104 Stat. 3186, provided that:

“(d) Not later than 1 year after the date of enactment of this Act [Nov. 16, 1990], the Secretary of Transportation, after appropriate notice and comment, and in consultation with the National Railroad Passenger Corporation, the Administrator of the Environmental Protection Agency, the Surgeon General, and State and local officials shall promulgate such regulations as may be necessary to mitigate the impact of the discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

“(e) Not later than 1 year after the date of enactment of this Act [Nov. 16, 1990], the Secretary of Transportation shall promulgate regulations directing the National Railroad Passenger Corporation to, where appropriate, publish printed information, and make public address announcements, explaining its existing disposal technology and the retrofit and new equipment program, and encouraging passengers using existing equipment not to dispose of wastes in stations, railroad yards, or while the train is moving through environmentally sensitive areas.”

#### PASSENGER CHOICE

Pub. L. 105-134, title I, §109, Dec. 2, 1997, 111 Stat. 2574, provided that: “Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.”

#### APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Pub. L. 105-134, title I, §110(b), Dec. 2, 1997, 111 Stat. 2574, provided that: “Section 303B(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(m)) applies to a proposal in the possession or control of Amtrak.”

#### EXEMPTION FROM LAWS RELATING TO ABANDONED OR UNCLAIMED PROPERTY

Pub. L. 104-205, title III, §347, Sept. 30, 1996, 110 Stat. 2976, provided that: “Hereinafter, the National Railroad Passenger Corporation (Amtrak) shall be exempted from any State or local law relating to the payment or delivery of abandoned or unclaimed personal property to any government authority, including any provision for the enforcement thereof, with respect to passenger rail tickets for which no refund has been or may be claimed, and such law shall not apply to funds held by Amtrak as a result of the purchase of tickets after April 30, 1972 for which no refund has been claimed.”

#### § 24302. Board of Directors

(a) REFORM BOARD.—

(1) ESTABLISHMENT AND DUTIES.—The Reform Board described in paragraph (2) shall assume the responsibilities of the Board of Directors of Amtrak by March 31, 1998, or as soon thereafter as at least 4 members have been appointed and qualified. The Board appointed under prior law shall be abolished when the Reform Board assumes such responsibilities.

(2) MEMBERSHIP.—(A)(i) The Reform Board shall consist of 7 voting members appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years.

(ii) Notwithstanding clause (i), if the Secretary of Transportation is appointed to the Reform Board, such appointment shall not be subject to the advice and consent of the Senate. If appointed, the Secretary may be represented at Board meetings by his designee.

(B) In selecting the individuals described in subparagraph (A) for nominations for appointments to the Reform Board, the President should consult with the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.

(C) Appointments under subparagraph (A) shall be made from among individuals who—

(i) have technical qualifications, professional standing, and demonstrated expertise in the fields of transportation or corporate or financial management;

(ii) are not representatives of rail labor or rail management; and

(iii) in the case of 6 of the 7 individuals selected, are not employees of Amtrak or of the United States.

(D) The President of Amtrak shall serve as an ex officio, nonvoting member of the Reform Board.

(3) CONFIRMATION PROCEDURE IN SENATE.—

(A) This paragraph is enacted by the Congress—

(i) as an exercise of the rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a motion to discharge; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(ii) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(B) If, by the first day of June on which the Senate is in session after a nomination is submitted to the Senate under this section, the committee to which the nomination was referred has not reported the nomination, then it shall be discharged from further consideration of the nomination and the nomination shall be placed on the Executive Calendar.

(C) It shall be in order at any time thereafter to move to proceed to the consideration of the nomination without any intervening action or debate.

(D) After no more than 10 hours of debate on the nomination, which shall be evenly divided between, and controlled by, the Majority Leader and the Minority Leader, the Senate shall proceed without intervening action to vote on the nomination.

(b) BOARD OF DIRECTORS.—Five years after the establishment of the Reform Board under subsection (a), a Board of Directors shall be selected—

(1) if Amtrak has, during the then current fiscal year, received Federal assistance, in accordance with the procedures set forth in subsection (a)(2); or

(2) if Amtrak has not, during the then current fiscal year, received Federal assistance, pursuant to bylaws adopted by the Reform Board (which shall provide for employee representation), and the Reform Board shall be dissolved.

(c) AUTHORITY TO RECOMMEND PLAN.—The Reform Board shall have the authority to recommend to the Congress a plan to implement the recommendations of the 1997 Working Group on Inter-City Rail regarding the transfer of Amtrak's infrastructure assets and responsibilities to a new separately governed corporation.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 906; Pub. L. 105-134, title IV, §411(a), Dec. 2, 1997, 111 Stat. 2588.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)   | Source (Statutes at Large)   |
|-----------------|--|--|
| 24302(a)(1) ..  | 45:543(a)(1) (words before (A)), (A) (1st sentence), (B)–(E) (words before comma). | Oct. 30, 1970, Pub. L. 91-518, §303(a), 84 Stat. 1330; re-stated Nov. 3, 1973, Pub. L. 93-146, §3(a), 87 Stat. 548; Feb. 5, 1976, Pub. L. 94-210, §706(f), 90 Stat. 124; Oct. 19, 1976, Pub. L. 94-555, §103, 90 Stat. 2615; May 30, 1980, Pub. L. 96-254, §206(a), 94 Stat. 412; Aug. 13, 1981, Pub. L. 97-35, §1174(a), 95 Stat. 689; June 22, 1988, Pub. L. 100-342, §18(b), 102 Stat. 636. |
| 24302(a)(2) ..  | 45:543(a)(2)(A) (1st sentence words before comma, last sentence).                  |  |
| 24302(a)(3) ..  | 45:543(a)(2)(B).   |  |
| 24302(a)(4) ..  | 45:543(a)(1)(E) (words after comma).   |  |
| 24302(a)(5) ..  | 45:543(a)(4).  |  |
| 24302(a)(6) ..  | 45:543(a)(1)(A) (last sentence).   |  |
| 24302(b) .....  | 45:543(a)(7).<br>45:543(c).  | Oct. 30, 1970, Pub. L. 91-518, §303(b), (c), 84 Stat. 1331.  |
| 24302(c) .....  | 45:543(a)(6).  |  |
| 24302(d) .....  | 45:543(a)(5).  |  |
| 24302(e) .....  | 45:543(a)(2)(A) (1st sentence words after comma), (3), (8).                        |  |
| 24302(f) .....  | 45:543(b).   |  |

In subsection (a)(1), before clause (A), the words “is composed of the following 9 directors, each of whom must be a citizen” are substituted for “consisting of nine individuals who are citizens” for consistency in the revised title. The words “as follows” are omitted as surplus. In clause (A), the words “ex officio” are omitted as surplus. In clause (C)(ii), the words “chief executive officer of a State” are substituted for “Governor” for consistency in the revised title and with other titles of the United States Code. In clause (D), the text of 45:543(a)(1)(D)(i) and the words “after January 1, 1983” are omitted as executed.

In subsection (a)(2), the words “by the President” and “registered as” are omitted as surplus.

In subsection (a)(3) and (4), the word “selected” is substituted for “appointed” for consistency.

In subsection (a)(6), the word “only” is added for clarity.

In subsection (b), the text of 45:543(a)(7) is omitted as obsolete because preferred stockholder representatives are always part of Amtrak’s board of directors. The text of 45:543(c) (words after “all stockholders”) is omitted as obsolete because Congress eliminated common stockholder representatives when it reconstituted the board.

In subsection (c), the words “direct or indirect” are omitted as surplus.

In subsection (d), the word “performing” is substituted for “engaged in the actual performance of” to eliminate unnecessary words. The word “board” is added for clarity. The words “and powers” are added for consistency in the revised title and with other titles of the Code. The word “reasonable” is substituted for “which is reasonably required” to eliminate unnecessary words.

In subsection (e), the words “the membership of” and “in the case of” are omitted as surplus. The words “occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of the term” are substituted for “shall be appointed only for the unexpired term of the member he is appointed to succeed” for clarity and consistency in the revised title and with other titles of the Code. The words “under subsection (a)(1)(C)” the 2d time they appear are substituted for “paragraph (1)(B) of this subsection” in 45:543(a)(8) to correct an erroneous cross-reference.

#### AMENDMENTS

1997—Pub. L. 105–134 amended section catchline and text generally. Prior to amendment, text related, in subsec. (a), to composition and terms of Amtrak board of directors, in subsec. (b), to cumulative voting by stockholders, in subsec. (c), to conflicts of interest of directors, in subsec. (d), to pay and expenses of directors, in subsec. (e), to vacancies on board, and in subsec. (f), to bylaws of board.

#### § 24303. Officers

(a) APPOINTMENT AND TERMS.—Amtrak has a President and other officers that are named and appointed by the board of directors of Amtrak. An officer of Amtrak must be a citizen of the United States. Officers of Amtrak serve at the pleasure of the board.

(b) PAY.—The board may fix the pay of the officers of Amtrak. An officer may not be paid more than the general level of pay for officers of rail carriers with comparable responsibility. The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.

(c) CONFLICTS OF INTEREST.—When employed by Amtrak, an officer may not have a financial or employment relationship with another rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 907; Pub. L. 105–134, title II, §207, Dec. 2, 1997, 111 Stat. 2584.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>            | <i>Source (Statutes at Large)</i>   |
|------------------------|--------------------------------------|---|
| 24303(a) .....         | 45:543(d) (1st, 4th, 5th sentences). | Oct. 30, 1970, Pub. L. 91–518, §303(d), 84 Stat. 1331; June 22, 1972, Pub. L. 92–316, §1(a), 86 Stat. 227; May 26, 1975, Pub. L. 94–25, §2, 89 Stat. 90; July 18, 1982, Pub. L. 97–216, §101 (par. under heading “Grants to the National Railroad Passenger Corporation”), 96 Stat. 187; June 22, 1988, Pub. L. 100–342, §18(c), 102 Stat. 636. |
| 24303(b) .....         | 45:543(d) (2d, 3d sentences).        |   |
| 24303(c) .....         | 45:543(d) (last sentence).           |   |

In subsection (a), the words “of directors of Amtrak” are added for clarity.

In subsection (b), the words “rates of”, “president and other”, and “at a level” are omitted as surplus.

In subsection (c), the words “direct or indirect” are omitted as surplus. The word “another” is substituted for “any” for clarity.

#### AMENDMENTS

1997—Subsec. (b). Pub. L. 105–134 inserted at end “The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.”

#### § 24304. Employee stock ownership plans

In issuing stock pursuant to applicable corporate law, Amtrak is encouraged to include employee stock ownership plans.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 908; Pub. L. 105–134, title IV, §415(a)(1), Dec. 2, 1997, 111 Stat. 2590.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>   |
|------------------------|---|---|
| 24304(a) .....         | 45:544(a) (1st sentence, last sentence words before (A), (A) (1st sentence), (B)(i) (1st sentence)).  | Oct. 30, 1970, Pub. L. 91–518, §304(a), 84 Stat. 1331; Aug. 13, 1981, Pub. L. 97–35, §1175(1), (2), 95 Stat. 691.             |
| 24304(b) .....         | 45:544(a) (2d sentence), 45:544(b).   | Oct. 30, 1970, Pub. L. 91–518, §304(b), 84 Stat. 1332; Aug. 28, 1974, Pub. L. 93–496, §2, 88 Stat. 1526.                      |
| 24304(c) .....         | 45:544(a) (last sentence words before (A), (A) (last sentence), (B)(i) (last sentence), (ii), (iii)). |   |
| 24304(d)(1) ..         | 45:544(c)(1), (2).  | Oct. 30, 1970, Pub. L. 91–518, §304(c)(1), (2), 84 Stat. 1332; restated Aug. 13, 1981, Pub. L. 97–35, §1175(3), 95 Stat. 691. |
| 24304(d)(2) ..         | 45:544(c)(3).   | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §304(c)(3); added Apr. 7, 1986, Pub. L. 99–272, §4003, 100 Stat. 107.           |
| 24304(d)(3) ..         | 45:544(c)(4).   | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §304(c)(4); added Oct. 27, 1992, Pub. L. 102–533, §5, 106 Stat. 3517.           |
| 24304(e) .....         | 45:544(e)(2).   | Oct. 30, 1970, Pub. L. 91–518, §304(d), (e), 84 Stat. 1332; restated Aug. 13, 1981, Pub. L. 97–35, §1175(4), 95 Stat. 691.    |
| 24304(f) .....         | 45:544(d).  |   |
| 24304(g) .....         | 45:544(e)(1).   |   |

In subsection (a), before clause (1), the words “issue and” are omitted because they are included in “have outstanding”. The words “in such amounts as it shall determine” are omitted as surplus. The words “one

issue of common stock and one issue of preferred stock” are substituted for “two issues of capital stock, a common and a preferred” for clarity. In clause (1), the word “designated” is omitted as surplus.

In subsection (b)(1)(A), the words “may not hold” are substituted for “may be issued and held only by any person other than” to eliminate unnecessary words.

In subsections (b)(1)(B) and (c), the words “as defined in section 10102(6) of title 49” are omitted because of the definition of “rail carrier” in section 24102 of the revised title.

In subsection (b)(1)(B), the words “after the initial issue is completed” are omitted as executed. The words “single” and “directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control” are omitted as surplus. The words “may vote not more than one-third of the total number of shares of outstanding common stock of Amtrak” are substituted for “At no time . . . shall the aggregate of the shares of common stock of the Corporation voted by . . . exceed 33⅓ per centum of such shares issued and outstanding” to eliminate unnecessary words.

In subsection (b)(2), the words “Additional common stock” are substituted for “a number of shares in excess of 33⅓ per centum of the total number of common shares issued and outstanding, such excess number” to eliminate unnecessary words. The words “issued and” are omitted because they are included in “outstanding”.

Subsection (c)(1) is substituted for “Dividends shall be fixed at a rate not less than 6 per centum per annum, and shall be cumulative” to eliminate unnecessary words.

In subsection (c)(2), the text of 45:544(a) (last sentence) (A) (last sentence) and the words “for any dividend period” and “at the rate fixed in the articles of incorporation” are omitted as surplus.

In subsection (c)(3), the words “holders of preferred stock” are substituted for “preferred stockholders”, and the words “holders of common stock” are substituted for “common stockholders”, for consistency in this chapter.

In subsection (c)(4), the words “at such time and upon such terms as the articles of incorporation shall provide” are omitted as surplus.

In subsection (d)(1), the text of 45:544(c)(1) and the words “Commencing on October 1, 1981” are omitted as executed. The words “and in consideration of receiving further Federal financial assistance”, “of the United States Government”, “additional”, and “of funds” are omitted as surplus.

In subsection (d)(3), the words “required to be issued” are omitted as surplus.

Subsection (e) is substituted for 45:544(e)(2) to eliminate unnecessary words.

In subsection (f), the words “in addition to the stock authorized by subsection (a) of this section”, “securities, bonds, debentures, notes, and other”, and “as it may determine” are omitted as surplus.

Subsection (g) is substituted for 45:544(e)(1) to eliminate unnecessary words.

#### AMENDMENTS

1997—Pub. L. 105-134 amended section catchline and text generally, substituting provisions relating to employee stock ownership plans for provisions relating to capitalization of Amtrak.

#### AMTRAK STOCK

Pub. L. 105-134, title IV, § 415(b), (c), Dec. 2, 1997, 111 Stat. 2590, provided that:

“(b) REDEMPTION OF COMMON STOCK.—Amtrak shall, before October 1, 2002, redeem all common stock previously issued, for the fair market value of such stock.

“(c) ELIMINATION OF LIQUIDATION PREFERENCE AND VOTING RIGHTS OF PREFERRED STOCK.—(1)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no liquidation preference.

“(B) Subparagraph (A) shall take effect 90 days after the date of the enactment of this Act [Dec. 2, 1997].

“(2)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no voting rights.

“(B) Subparagraph (A) shall take effect 60 days after the date of the enactment of this Act.”

#### § 24305. General authority

(a) ACQUISITION AND OPERATION OF EQUIPMENT AND FACILITIES.—(1) Amtrak may acquire, operate, maintain, and make contracts for the operation and maintenance of equipment and facilities necessary for intercity and commuter rail passenger transportation, the transportation of mail and express, and auto-ferry transportation.

(2) Amtrak shall operate and control directly, to the extent practicable, all aspects of the rail passenger transportation it provides.

(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.

(b) MAINTENANCE AND REHABILITATION.—Amtrak may maintain and rehabilitate rail passenger equipment and shall maintain a regional maintenance plan that includes—

(1) a review panel at the principal office of Amtrak consisting of members the President of Amtrak designates;

(2) a systemwide inventory of spare equipment parts in each operational region;

(3) enough maintenance employees for cars and locomotives in each region;

(4) a systematic preventive maintenance program;

(5) periodic evaluations of maintenance costs, time lags, and parts shortages and corrective actions; and

(6) other elements or activities Amtrak considers appropriate.

(c) MISCELLANEOUS AUTHORITY.—Amtrak may—

(1) make and carry out appropriate agreements;

(2) transport mail and express and shall use all feasible methods to obtain the bulk mail business of the United States Postal Service;

(3) improve its reservation system and advertising;

(4) provide food and beverage services on its trains only if revenues from the services each year at least equal the cost of providing the services;

(5) conduct research, development, and demonstration programs related to the mission of Amtrak; and

(6) buy or lease rail rolling stock and develop and demonstrate improved rolling stock.

(d) THROUGH ROUTES AND JOINT FARES.—(1) Establishing through routes and joint fares between Amtrak and other intercity rail passenger carriers and motor carriers of passengers is consistent with the public interest and the transportation policy of the United States. Congress encourages establishing those routes and fares.

(2) Amtrak may establish through routes and joint fares with any domestic or international motor carrier, air carrier, or water carrier.

(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in sections 11322 and 14302 of this title for the purpose of providing improved service to the public and economy of operation.

(e) RAIL POLICE.—Amtrak may employ rail police to provide security for rail passengers and property of Amtrak. Rail police employed by Amtrak who have complied with a State law establishing requirements applicable to rail police or individuals employed in a similar position may be employed without regard to the law of another State containing those requirements.

(f) DOMESTIC BUYING PREFERENCES.—(1) In this subsection, “United States” means the States, territories, and possessions of the United States and the District of Columbia.

(2) Amtrak shall buy only—

(A) unmanufactured articles, material, and supplies mined or produced in the United States; or

(B) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

(3) Paragraph (2) of this subsection applies only when the cost of those articles, material, or supplies bought is at least \$1,000,000.

(4) On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection if the Secretary decides that—

(A) for particular articles, material, or supplies—

(i) the requirements of paragraph (2) of this subsection are inconsistent with the public interest;

(ii) the cost of imposing those requirements is unreasonable; or

(iii) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or

(B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 909; Pub. L. 105–134, title I, §107, Dec. 2, 1997, 111 Stat. 2573.)

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>  | <i>Source (Statutes at Large)</i>   |
|------------------------|--|---|
| 24305(a)(1) ..         | 45:545(a) (1st sentence 1st–32d words, words after last semicolon).        | Oct. 30, 1970, Pub. L. 91–518, §305(a) (1st, 2d sentences), 84 Stat. 1332; June 22, 1972, Pub. L. 92–316, §2(1), (2), 86 Stat. 228; Nov. 3, 1973, Pub. L. 93–146, §4, 87 Stat. 549; Aug. 13, 1981, Pub. L. 97–35, §1188(b), 95 Stat. 699. |
|                        | 45:545(b) (4th sentence).  | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(b) (4th sentence); added June 22, 1972, Pub. L. 92–316, §2(3), 86 Stat. 228; Nov. 3, 1973, Pub. L. 93–146, §5, 87 Stat. 550.   |
|                        | 45:545(e)(5).  | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(e)(1)–(6); added Nov. 3, 1973, Pub. L. 93–146, §6, 87 Stat. 551.   |
| 24305(a)(2) ..         | 45:545(a) (2d sentence).   |   |
| 24305(b) .....         | 45:545(e)(2).<br>45:545(g).  | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(g); added Oct. 28, 1974, Pub. L. 93–496, §3, 88 Stat. 1527; re-stated Sept. 29, 1979, Pub. L. 96–73, §§106, 107, 93 Stat. 539, 540.  |
| 24305(c)(1) ..         | 45:851(a)(2).  | Feb. 5, 1976, Pub. L. 94–210, §701(a)(2), 90 Stat. 119.   |
| 24305(c)(2) ..         | 45:545(a) (1st sentence 33d word–1st semicolon).<br>45:545a.               | Oct. 5, 1978, Pub. L. 95–421, §19, 92 Stat. 930.  |
| 24305(c)(3) ..         | 45:545(e)(1).  |   |
| 24305(c)(4) ..         | 45:545(n).   | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(n); added Aug. 13, 1981, Pub. L. 97–35, §1177(a), 95 Stat. 692.  |
| 24305(c)(5) ..         | 45:545(a) (1st sentence words between 1st and last semicolons),<br>(e)(3). |   |
| 24305(c)(6) ..         | 45:545(e)(4), (6).   |   |
| 24305(d) .....         | 45:546(j).   | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §306(j); added Oct. 19, 1976, Pub. L. 94–555, §106, 90 Stat. 2615; Sept. 29, 1979, Pub. L. 96–73, §112(b), 93 Stat. 541.  |
| 24305(e) .....         | 45:545(j).   | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(j); added Oct. 19, 1976, Pub. L. 94–555, §104, 90 Stat. 2615; Sept. 29, 1979, Pub. L. 96–73, §§106, 108, 93 Stat. 539, 540.  |
| 24305(f) .....         | 45:545(k).   | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(k); added Oct. 5, 1978, Pub. L. 95–421, §10, 92 Stat. 928; Sept. 29, 1979, Pub. L. 96–73, §§106, 109, 93 Stat. 539, 540.   |

In subsection (a)(1), the text of 45:545(e)(5) is omitted as obsolete. The words “acquire, operate, maintain, and make contracts for the operation and maintenance of” are substituted for “own, manage, operate, or contract for the operation of”, “acquire by construction, purchase, or gift, or to contract for the use of”, “acquire, lease, modify, or develop”, and “or to enter into contracts for the provision of such service” to eliminate unnecessary words. The word “physical” is omitted as surplus. The words “intercity and commuter trains” are omitted as being included in “equipment”. The words “the transportation of mail and express” are substituted for “mail, express . . . service” for consistency in this chapter.

In subsection (b), before clause (1), the words “service” and “repair” are omitted as surplus. The words “not later than January 1, 1980” are omitted as executed. In clause (1), the words “principal office of Amtrak” are substituted for “corporate headquarters” for clarity and consistency. In clauses (3) and (4), the words “establishment of” are omitted as executed.

In subsection (c)(1), the words “contracts and” and “necessary or . . . in the conduct of its functions” are omitted as surplus.

In subsection (c)(2), the words “on such trains” in 45:545(a), and the words “including taking into account the needs of the United States Postal Service in establishing schedules” and “and service” in 45:545a, are omitted as surplus.

In subsection (c)(4), the text of 45:545(n) (1st sentence) and the words “Beginning October 1, 1982” are omitted as executed.

In subsection (d)(1), the words “rail passenger carriers” are substituted for “common carriers of passengers by rail” for consistency in the revised title. The words “establishing those routes and fares” are substituted for “the making of such arrangements” for clarity.

In subsection (e), the words “and protection” and “licensing, residency, or related” are omitted as surplus.

In subsection (f)(1), the words “several” and “the Commonwealth of Puerto Rico” are omitted as surplus.

In subsection (f)(2), the words “Except as provided in paragraph (2) or (3) of this subsection”, “which have been”, “all”, and “as the case may be” are omitted as surplus.

In subsection (f)(3), the text of 45:545(k)(4)(B) is omitted as executed.

In subsection (f)(4)(A) and (B), the words “the purchase of” are omitted as surplus.

In subsection (f)(4)(A)(i), the words “imposing” and “with respect to such articles, materials, and supplies” are omitted as surplus.

#### AMENDMENTS

1997—Subsec. (a)(3). Pub. L. 105-134, §107(a), added par. (3).

Subsec. (d)(3). Pub. L. 105-134, §107(b), added par. (3).

#### GENERAL SERVICES ADMINISTRATION SERVICES

Pub. L. 106-554, §1(a)(4) [div. A, §1110], Dec. 21, 2000, 114 Stat. 2763, 2763A-202, provided that: “Amtrak is authorized to obtain services from the Administrator of General Services, and the Administrator is authorized to provide services to Amtrak, under sections 201(b) and 211(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(b) and 491(b)) [now 40 U.S.C. 502, 602, 603(a)(1)] for fiscal year 2001 and each fiscal year thereafter until the fiscal year that Amtrak operates without Federal operating grant funds appropriated for its benefit, as required by sections 24101(d) and 24104(a) of title 49, United States Code.”

#### RAIL AND MOTOR CARRIER PASSENGER SERVICE

Pub. L. 105-134, title I, §108, Dec. 2, 1997, 111 Stat. 2574, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a)(3) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

“(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

“(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

“(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.”

#### EDUCATIONAL PARTICIPATION

Pub. L. 105-134, title IV, §412, Dec. 2, 1997, 111 Stat. 2589, provided that: “Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety.”

### § 24306. Mail, express, and auto-ferry transportation

(a) ACTIONS TO INCREASE REVENUES.—Amtrak shall take necessary action to increase its reve-

nues from the transportation of mail and express. To increase its revenues, Amtrak may provide auto-ferry transportation as part of the basic passenger transportation authorized by this part.

(b) AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 910; Pub. L. 105-134, title I, §102, Dec. 2, 1997, 111 Stat. 2572.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)   | Source (Statutes at Large)  |
|-----------------|--|---|
| 24306(a) .....  | 45:545(b) (1st, 2d sentence words before 2d comma, last sentence). | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §305(b) (1st-3d, last sentences); added June 22, 1972, Pub. L. 92-316, §2(3), 86 Stat. 228; Nov. 3, 1973, Pub. L. 93-146, §5, 87 Stat. 549. |
| 24306(b)(1) ..  | 45:545(b) (2d sentence words after 2d comma).                      |   |
| 24306(b)(2) ..  | 45:545(b) (3d sentence).   |   |
| 24306(b)(3) ..  | 45:546(h).   | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §306(h); added Nov. 3, 1973, Pub. L. 93-146, §7, 87 Stat. 551.  |

In subsection (a), the words “and to better accomplish the purposes of this chapter” and “modify its services to” are omitted as surplus. The words “a department, agency, or instrumentality of the United States Government” are substituted for “Federal departments and agencies” for consistency in the revised title and with other titles of the United States Code. The words “consistent with the provisions of existing law” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “A person primarily providing auto-ferry transportation and any other person not a rail carrier may provide” are substituted for “except that nothing contained in this chapter shall prevent any other person, other than a railroad (except that for purposes of this section a person primarily engaged in auto-ferry service shall not be deemed to be a railroad), from providing such” to eliminate unnecessary words. The text of 45:545(b) (2d sentence words after “the public”) is omitted as obsolete.

In subsection (b)(2), the words “may provide” are substituted for “Nothing in this section shall be construed to restrict the right of . . . from performing” to eliminate unnecessary words and for clarity. The words “rail lines” are substituted for “lines” for clarity and consistency in the revised title and with other titles of the Code.

In subsection (b)(3), the words “has the effect of prohibiting or”, “fine, penalty, or other”, and “for violation of” are omitted as surplus. The words “rail carrier” are substituted for “common carrier by railroad” for consistency in the revised title and with other titles of the Code.

#### AMENDMENTS

1997—Subsec. (a). Pub. L. 105-134, §102(1), struck out at end “When requested by Amtrak, a department, agency, or instrumentality of the United States Government shall assist in carrying out this section.”

Subsec. (b). Pub. L. 105-134, §102(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

“(1) A person primarily providing auto-ferry transportation and any other person not a rail carrier may provide auto-ferry transportation over any route under a certificate issued by the Interstate Commerce Commission if the Commission finds that the auto-ferry transportation—

“(A) will not impair the ability of Amtrak to reduce its losses or increase its revenues; and

“(B) is required to meet the public demand.

“(2) A rail carrier that has not made a contract with Amtrak to provide rail passenger transportation may provide auto-ferry transportation over its own rail lines.

“(3) State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.”

### § 24307. Special transportation

(a) REDUCED FARE PROGRAM.—Amtrak shall maintain a reduced fare program for the following:

(1) individuals at least 65 years of age.

(2) individuals (except alcoholics and drug abusers) who—

(A) have a physical or mental impairment that substantially limits a major life activity of the individual;

(B) have a record of an impairment; or

(C) are regarded as having an impairment.

(b) EMPLOYEE TRANSPORTATION.—(1) In this subsection, “rail carrier employee” means—

(A) an active full-time employee of a rail carrier or terminal company and includes an employee on furlough or leave of absence;

(B) a retired employee of a rail carrier or terminal company; and

(C) a dependent of an employee referred to in clause (A) or (B) of this paragraph.

(2) Amtrak shall ensure that a rail carrier employee eligible for free or reduced-rate rail transportation on April 30, 1971, under an agreement in effect on that date is eligible, to the greatest extent practicable, for free or reduced-rate intercity rail passenger transportation provided by Amtrak under this part, if space is available, on terms similar to those available on that date under the agreement. However, Amtrak may apply to all rail carrier employees eligible to receive free or reduced-rate transportation under any agreement a single systemwide schedule of terms that Amtrak decides applied to a majority of employees on that date under all those agreements. Unless Amtrak and a rail carrier make a different agreement, the carrier shall reimburse Amtrak at the rate of 25 percent of the systemwide average monthly yield of each revenue passenger-mile. The reimbursement is in place of costs Amtrak incurs related to free or reduced-rate transportation, including liability related to travel of a rail carrier employee eligible for free or reduced-rate transportation.

(3) This subsection does not prohibit the Interstate Commerce Commission from ordering retroactive relief in a proceeding begun or reopened after October 1, 1981.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 911; Pub. L. 105-134, title IV, §406(b), Dec. 2, 1997, 111 Stat. 2586.)

### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 24307(a) .....         | 45:545(c)(2).             | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §305(c)(2); added Sept. 29, 1979, Pub. L. 96-73, §105(2), 93 Stat. 539.  |
| 24307(b) .....         | 45:545(c)(1).             | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §305(c)(1); added Nov. 3, 1973, Pub. L. 93-146, §6, 87 Stat. 550; Sept. 29, 1979, Pub. L. 96-73, §105(1), 93 Stat. 539.  |
| 24307(c) .....         | 45:565(f).                | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §405(f); added June 22, 1972, Pub. L. 92-316, §8, 86 Stat. 230; Sept. 29, 1979, Pub. L. 96-73, §120(a), 93 Stat. 547; Aug. 13, 1981, Pub. L. 97-35, §1184, 95 Stat. 697. |

In subsection (a), before clause (1), the word “maintain” is substituted for “Within 90 days after September 29, 1979” and “establish” for clarity.

In subsection (b), before clause (1), the word “act” is substituted for “take all steps necessary to” to eliminate unnecessary words. The words “access to” are added for clarity. In clause (1), the words “and devices” are omitted as surplus. In clause (4), the words “architectural and other” are omitted as surplus.

In subsection (c)(1)(A), the words “period of” and “while on” are omitted as surplus.

In subsection (c)(2), the words “take such action as may be necessary to”, “the terms of . . . policy or”, and “to such railroad employee” are omitted as surplus. The words “or group of railroads” are omitted because of 1:1.

### AMENDMENTS

1997—Subsecs. (b), (c). Pub. L. 105-134 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

“(b) ACTIONS TO ENSURE ACCESS.—Amtrak may act to ensure access to intercity transportation for elderly or handicapped individuals on passenger trains operated by or for Amtrak. That action may include—

“(1) acquiring special equipment;

“(2) conducting special training for employees;

“(3) designing and acquiring new equipment and facilities;

“(4) eliminating barriers in existing equipment and facilities to comply with the highest standards of design, construction, and alteration of property to accommodate elderly and handicapped individuals; and

“(5) providing special assistance to elderly and handicapped individuals when getting on and off trains and in terminal areas.”

### AMERICANS WITH DISABILITIES ACT OF 1990

Pub. L. 105-134, title IV, §406(a), Dec. 2, 1997, 111 Stat. 2586, provided that:

“(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements required by the Americans With Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] at any station jointly used by Amtrak and a commuter authority.

“(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.”

### ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of this title, and section 101 of Pub. L. 104-88, set out as a note under section 701 of this title. References to Interstate Com-

merce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of this title.

**§ 24308. Use of facilities and providing services to Amtrak**

(a) GENERAL AUTHORITY.—(1) Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or authority under terms on which the parties agree. The terms shall include a penalty for untimely performance.

(2)(A) If the parties cannot agree and if the Interstate Commerce Commission finds it necessary to carry out this part, the Commission shall—

(i) order that the facilities be made available and the services provided to Amtrak; and

(ii) prescribe reasonable terms and compensation for using the facilities and providing the services.

(B) When prescribing reasonable compensation under subparagraph (A) of this paragraph, the Commission shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services.

(C) The Commission shall decide the dispute not later than 90 days after Amtrak submits the dispute to the Commission.

(3) Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation. If the compensation is not paid promptly, the rail carrier or authority entitled to it may bring an action against Amtrak to recover the amount owed.

(4) Amtrak shall seek immediate and appropriate legal remedies to enforce its contract rights when track maintenance on a route over which Amtrak operates falls below the contractual standard.

(b) OPERATING DURING EMERGENCIES.—To facilitate operation by Amtrak during an emergency, the Commission, on application by Amtrak, shall require a rail carrier to provide facilities immediately during the emergency. The Commission then shall promptly prescribe reasonable terms, including indemnification of the carrier by Amtrak against personal injury risk to which the carrier may be exposed. The rail carrier shall provide the facilities for the duration of the emergency.

(c) PREFERENCE OVER FREIGHT TRANSPORTATION.—Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Secretary of Transportation orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Secretary for relief. If the Secretary, after an opportunity for a hearing under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the Secretary shall establish the rights of the carrier and Amtrak on reasonable terms.

(d) ACCELERATED SPEEDS.—If a rail carrier refuses to allow accelerated speeds on trains operated by or for Amtrak, Amtrak may apply to the Secretary for an order requiring the carrier to allow the accelerated speeds. The Secretary shall decide whether accelerated speeds are unsafe or impracticable and which improvements would be required to make accelerated speeds safe and practicable. After an opportunity for a hearing, the Secretary shall establish the maximum allowable speeds of Amtrak trains on terms the Secretary decides are reasonable.

(e) ADDITIONAL TRAINS.—(1) When a rail carrier does not agree to provide, or allow Amtrak to provide, for the operation of additional trains over a rail line of the carrier, Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains. After a hearing on the record, the Secretary may order the carrier, within 60 days, to provide or allow for the operation of the requested trains on a schedule based on legally permissible operating times. However, if the Secretary decides not to hold a hearing, the Secretary, not later than 30 days after receiving the application, shall publish in the Federal Register the reasons for the decision not to hold the hearing.

(2) The Secretary shall consider—

(A) when conducting a hearing, whether an order would impair unreasonably freight transportation of the rail carrier, with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation; and

(B) when establishing scheduled running times, the statutory goal of Amtrak to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliability and passenger comfort.

(3) Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection, the Commission shall decide the dispute under subsection (a) of this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 911.)

HISTORICAL AND REVISION NOTES

| Revised Section  | Source (U.S. Code) | Source (Statutes at Large)  |
|------------------|--------------------|---|
| 24308(a)(1)–(3). | 45:562(a)(1).      | Oct. 30, 1970, Pub. L. 91-518, §402(a)(1), 84 Stat. 1335; June 22, 1972, Pub. L. 92-316, §5(1), 86 Stat. 229; Nov. 3, 1973, Pub. L. 93-146, §10(1), 87 Stat. 552; Oct. 5, 1978, Pub. L. 95-421, §15, 92 Stat. 929; Aug. 13, 1981, Pub. L. 97-35, §1181, 95 Stat. 693; Apr. 7, 1986, Pub. L. 99-272, §4017(b)(1), 100 Stat. 110. |
| 24308(a)(4) ..   | 45:562 (note).     | July 11, 1987, Pub. L. 100-71 (last proviso under heading "Grants to the National Railroad Passenger Corporation"), 101 Stat. 447.  |
| 24308(b) .....   | 45:562(c).         | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §402(c); added June 22, 1972, Pub. L. 92-316, §5(2), 86 Stat. 229.  |



## HISTORICAL AND REVISION NOTES—CONTINUED

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)  |
|-----------------|--------------------|---|
| 24308(c) .....  | 45:562(e).         | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, § 402(e); added Nov. 3, 1973, Pub. L. 93-146, § 10(2), 87 Stat. 552; Aug. 13, 1981, Pub. L. 97-35, § 1188(c), 95 Stat. 699. |
| 24308(d) .....  | 45:562(f).         | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, § 402(f); added Nov. 3, 1973, Pub. L. 93-146, § 10(2), 87 Stat. 552.  |
| 24308(e) .....  | 45:562(g).         | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, § 402(g); added May 30, 1980, Pub. L. 96-254, § 216, 94 Stat. 418; Apr. 7, 1986, Pub. L. 99-272, § 4006(2), 100 Stat. 107.  |

In subsection (a)(1), the word “authority” is substituted for “agencies” for consistency in the revised title and with other titles of the United States Code. The words “tracks and other” are omitted as surplus. The words “of . . . by, the carrier or authority” are added for clarity. The words “and conditions” are omitted as surplus.

In subsection (a)(2)(A), before clause (i), the words “the purposes of” are omitted as surplus. In clause (ii), the words “just and” are omitted as surplus.

Subsection (a)(2)(B) is substituted for 45:562(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (a)(2)(C), the words “shall decide the dispute” are added, and the words “submits the dispute” are substituted for “application”, for clarity.

In subsection (a)(3), the words “Amtrak’s right to use the facilities or have the services provided is conditioned on payment of the compensation” are substituted for “and the rights of the Corporation to such services or to the use of tracks or facilities of the railroad or agency under such order . . . shall be conditioned upon payment by the Corporation of the compensation fixed by the Commission” to eliminate unnecessary words. The words “or under an order issued under subsection (b) of this section” are omitted as obsolete because 45:562(b) is executed. The words “amount of”, “fixed”, “duly and”, and “properly” are omitted as surplus.

In subsection (a)(4), the words “notwithstanding any other provision of law”, “hereafter”, and “becomes inadequate or otherwise” are omitted as surplus.

In subsections (b)–(d), the words “just and” are omitted as surplus.

In subsection (b), the words “as may be deemed by it to be necessary”, “tracks and other”, and “proceed to” are omitted as surplus. The words “personal injury” are substituted for “casualty” for consistency.

In subsections (c) and (d), the words “an opportunity for a” are added for clarity and consistency.

In subsection (c), the word “given” is omitted as surplus. The words “rail line” are substituted for “line of track” for consistency in the revised title and with other titles of the Code. The word “appropriate” is omitted as surplus. The words “the carrier” are substituted for “trains” for clarity and consistency. The words “and Amtrak” are added for clarity.

In subsection (d), the words “upon request of the Corporation” and “otherwise” are omitted as surplus. The words “which improvements would be required” are substituted for “and with respect to the nature and extent of improvements to track, signal systems, and other facilities that would be required” to eliminate unnecessary words.

In subsection (e)(1), the words “satisfactory, voluntary” are omitted as surplus. The words “provide, or allow Amtrak to provide” are added, and the words “Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains” are substituted for “Upon receipt of an application from the Corporation”, for clarity.

In subsection (e)(2)(A), the words “involved” and “seeking to oppose the operation of an additional

train” are omitted as surplus. The words “when conducting a hearing” are added for clarity.

In subsection (e)(2)(B), the word “proper” is omitted as surplus. The words “60 miles” are substituted for “55 miles” for consistency with 45:501a(8), restated in section 24101(c)(6) of the revised title. Section 1172(3) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 91-35, 95 Stat. 688) raised the speed from 55 to 60 in 45:501a but did not make a corresponding change in 45:562(g).

In subsection (e)(3), the words “Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection” are substituted for 45:562(g) (last sentence words before last comma) to eliminate unnecessary words. The words “the dispute” are added for clarity and consistency in this section.

## ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of this title, and section 101 of Pub. L. 104-88, set out as a note under section 701 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of this title.

**§ 24309. Retaining and maintaining facilities**

(a) DEFINITIONS.—In this section—

(1) “facility” means a rail line, right of way, fixed equipment, facility, or real property related to a rail line, right of way, fixed equipment, or facility, including a signal system, passenger station and repair tracks, a station building, a platform, and a related facility, including a water, fuel, steam, electric, and air line.

(2) downgrading a facility means reducing a track classification as specified in the Federal Railroad Administration track safety standards or altering a facility so that the time required for rail passenger transportation to be provided over the route on which a facility is located may be increased.

(b) APPROVAL REQUIRED FOR DOWNGRADING OR DISPOSAL.—A facility of a rail carrier or regional transportation authority that Amtrak used to provide rail passenger transportation on February 1, 1979, or on January 1, 1997, may be downgraded or disposed of only after approval by the Secretary of Transportation under this section.

(c) NOTIFICATION AND ANALYSIS.—(1) A rail carrier intending to downgrade or dispose of a facility Amtrak currently is not using to provide transportation shall notify Amtrak of its intention. If, not later than 60 days after Amtrak receives the notice, Amtrak and the carrier do not agree to retain or maintain the facility or to convey an interest in the facility to Amtrak, the carrier may apply to the Secretary for approval to downgrade or dispose of the facility.

(2) After a rail carrier notifies Amtrak of its intention to downgrade or dispose of a facility, Amtrak shall survey population centers with rail passenger transportation facilities to assist in preparing a valid and timely analysis of the need for the facility and shall update the survey

as appropriate. Amtrak also shall maintain a system for collecting information gathered in the survey. The system shall collect the information based on geographic regions and on whether the facility would be part of a short haul or long haul route. The survey should facilitate an analysis of—

(A) ridership potential by ascertaining existing and changing travel patterns that would provide maximum efficient rail passenger transportation;

(B) the quality of transportation of competitors or likely competitors;

(C) the likelihood of Amtrak offering transportation at a competitive fare;

(D) opportunities to target advertising and fares to potential classes of riders;

(E) economic characteristics of rail passenger transportation related to the facility and the extent to which the characteristics are consistent with sound economic principles of short haul or long haul rail transportation; and

(F) the feasibility of applying effective internal cost controls to the facility and route served by the facility to improve the ratio of passenger revenue to transportation expenses (excluding maintenance of tracks, structures, and equipment and depreciation).

(d) **APPROVAL OF APPLICATION AND PAYMENT OF AVOIDABLE COSTS.**—(1) If Amtrak does not object to an application not later than 30 days after it is submitted, the Secretary shall approve the application promptly.

(2) If Amtrak objects to an application, the Secretary shall decide by not later than 180 days after the objection those costs the rail carrier may avoid if it does not have to retain or maintain a facility in the condition Amtrak requests. If Amtrak does not agree by not later than 60 days after the decision to pay the carrier these avoidable costs, the Secretary shall approve the application. When deciding whether to pay a carrier the avoidable costs of retaining or maintaining a facility, Amtrak shall consider—

(A) the potential importance of restoring rail passenger transportation on the route on which the facility is located;

(B) the market potential of the route;

(C) the availability, adequacy, and energy efficiency of an alternate rail line or alternate mode of transportation to provide passenger transportation to or near the places that would be served by the route;

(D) the extent to which major population centers would be served by the route;

(E) the extent to which providing transportation over the route would encourage the expansion of an intercity rail passenger system in the United States; and

(F) the possibility of increased ridership on a rail line that connects with the route.

(e) **COMPLIANCE WITH OTHER OBLIGATIONS.**—Downgrading or disposing of a facility under this section does not relieve a rail carrier from complying with its other common carrier or legal obligations related to the facility.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 913; Pub. L. 105-134, title I, §162, Dec. 2, 1997, 111 Stat. 2578.)

# HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)    | Source (Statutes at Large)   |
|-----------------|-----------------------|--|
| 24309(a) .....  | 45:566(e)(1), (2).    | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §406; added Sept. 29, 1979, Pub. L. 96-73, §121, 93 Stat. 548. |
| 24309(b) .....  | 45:566(a).            |  |
| 24309(c)(1) ..  | 45:566(b).            |  |
| 24309(c)(2) ..  | 45:566(d)(2).         |  |
| 24309(d)(1) ..  | 45:566(c)(1).         |  |
| 24309(d)(2) ..  | 45:566(c)(2), (d)(1). |  |
| 24309(e) .....  | 45:566(e)(3).         |  |

In subsection (a)(1), the words “rail line” are substituted for “railroad tracks” for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the word “authority” is substituted for “agency” for consistency in the revised title and with other titles of the Code. The words “obtaining the” are omitted as surplus.

In subsection (c)(1), the words “first” and “to take such action” are omitted as surplus.

In subsection (c)(2), before clause (A), the words “need for the” are added for clarity. The words “necessary or” are omitted as surplus. The words “Within 90 days after September 29, 1979” and 45:566(d)(2)(A)(i) are omitted as executed. The word “maintain” is substituted for “take steps to prepare” for clarity. The words “survey plan which shall provide for” and “compilation, and storage” are omitted as surplus. In clause (F), the words “over time” are omitted as surplus.

In subsection (d)(2), before clause (A), the word “timely” is omitted as surplus. In clause (F), the words “rail line” are substituted for “lines of railroad” for consistency in the revised title and with other titles of the Code.

In subsection (e), the words “approval of” are omitted as surplus.

## AMENDMENTS

1997—Subsec. (b). Pub. L. 105-134 inserted “or on January 1, 1997,” after “1979,”.

## § 24310. Repealed. Pub. L. 105-134, title IV, § 403, Dec. 2, 1997, 111 Stat. 2585]

Section, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 914, allowed petition or application to Secretary of Transportation for assistance in upgrading facilities to correct dangerous conditions or State and local violations.

## § 24311. Acquiring interests in property by eminent domain

(a) **GENERAL AUTHORITY.**—(1) To the extent financial resources are available, Amtrak may acquire by eminent domain under subsection (b) of this section interests in property—

(A) necessary for intercity rail passenger transportation, except property of a rail carrier, a State, a political subdivision of a State, or a governmental authority; or

(B) requested by the Secretary of Transportation in carrying out the Secretary’s duty to design and build an intermodal transportation terminal at Union Station in the District of Columbia if the Secretary assures Amtrak that the Secretary will reimburse Amtrak.

(2) Amtrak may exercise the power of eminent domain only if it cannot—

(A) acquire the interest in the property by contract; or

(B) agree with the owner on the purchase price for the interest.

(b) **CIVIL ACTIONS.**—(1) A civil action to acquire an interest in property by eminent domain

under subsection (a) of this section must be brought in the district court of the United States for the judicial district in which the property is located or, if a single piece of property is located in more than one judicial district, in any judicial district in which any piece of the property is located. An interest is condemned and taken by Amtrak for its use when a declaration of taking is filed under this subsection and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court. The declaration may be filed with the complaint in the action or at any time before judgment. The declaration must contain or be accompanied by—

(A) a statement of the public use for which the interest is taken;

(B) a description of the property sufficient to identify it;

(C) a statement of the interest in the property taken;

(D) a plan showing the interest taken; and

(E) a statement of the amount of money Amtrak estimates is just compensation for the interest.

(2) When the declaration is filed and the deposit is made under paragraph (1) of this subsection, title to the property vests in Amtrak in fee simple absolute or in the lesser interest shown in the declaration, and the right to the money vests in the person entitled to the money. When the declaration is filed, the court may decide—

(A) the time by which, and the terms under which, possession of the property is given to Amtrak; and

(B) the disposition of outstanding charges related to the property.

(3) After a hearing, the court shall make a finding on the amount that is just compensation for the interest in the property and enter judgment awarding that amount and interest on it. The rate of interest is 6 percent a year and is computed on the amount of the award less the amount deposited in the court from the date of taking to the date of payment.

(4) On application of a party, the court may order immediate payment of any part of the amount deposited in the court for the compensation to be awarded. If the award is more than the amount received, the court shall enter judgment against Amtrak for the deficiency.

(c) **AUTHORITY TO CONDEMN RAIL CARRIER PROPERTY INTERESTS.**—(1) If Amtrak and a rail carrier cannot agree on a sale to Amtrak of an interest in property of a rail carrier necessary for intercity rail passenger transportation, Amtrak may apply to the Interstate Commerce Commission for an order establishing the need of Amtrak for the interest and requiring the carrier to convey the interest on reasonable terms, including just compensation. The need of Amtrak is deemed to be established, and the Commission, after holding an expedited proceeding and not later than 120 days after receiving the application, shall order the interest conveyed unless the Commission decides that—

(A) conveyance would impair significantly the ability of the carrier to carry out its obligations as a common carrier; and

(B) the obligations of Amtrak to provide modern, efficient, and economical rail passenger transportation can be met adequately by acquiring an interest in other property, either by sale or by exercising its right of eminent domain under subsection (a) of this section.

(2) If the amount of compensation is not determined by the date of the Commission's order, the order shall require, as part of the compensation, interest at 6 percent a year from the date prescribed for the conveyance until the compensation is paid.

(3) Amtrak subsequently may reconvey to a third party an interest conveyed to Amtrak under this subsection or prior comparable provision of law if the Commission decides that the reconveyance will carry out the purposes of this part, regardless of when the proceeding was brought (including a proceeding pending before a United States court on November 28, 1990).

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 915.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>   |
|------------------------|---|---|
| 24311(a) .....         | 45:545(d)(1) (less words between 11th comma and proviso).                                 | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §305(d)(1); added Nov. 3, 1973, Pub. L. 93-146, §6, 87 Stat. 550; re-stated Oct. 28, 1974, Pub. L. 93-496, §6, 88 Stat. 1528; Feb. 5, 1976, Pub. L. 94-210, §706(g), 90 Stat. 125; May 30, 1980, Pub. L. 96-254, §206(a), 94 Stat. 412. |
| 24311(b)(1) ..         | 45:545(d)(1) (words between 11th comma and proviso).<br>45:545(d)(2), (3) (1st sentence). | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §305(d)(2)-(5); added Nov. 3, 1973, Pub. L. 93-146, §6, 87 Stat. 550.   |
| 24311(b)(2) ..         | 45:545(d)(3) (2d sentence), (5).  |   |
| 24311(b)(3) ..         | 45:545(d)(3) (3d, last sentences).  |   |
| 24311(b)(4) ..         | 45:545(d)(4).   |   |
| 24311(c) .....         | 45:562(d).  | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §402(d); added Nov. 3, 1973, Pub. L. 93-146, §10(2), 87 Stat. 552; Feb. 5, 1976, Pub. L. 94-210, §706(h), 90 Stat. 125; May 30, 1980, Pub. L. 96-254, §206(a), 94 Stat. 412; Nov. 28, 1990, Pub. L. 101-641, §9(a), 104 Stat. 4658.     |
|                        | 45:562 (note).  | Nov. 28, 1990, Pub. L. 101-641, §9(b), 104 Stat. 4658.  |

In subsection (a)(1), before clause (A), the words “the exercise of the right of” and “right-of-way, land, or other” are omitted as surplus.

In subsection (b)(1) and (2), the words “estate or” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “A civil action to acquire an interest in property by eminent domain under subsection (a) of this section must be brought” are added, the words “any judicial district in which any piece of the property is located” are substituted for “any such court”, and the words “under this subsection” are added, for clarity.

In subsection (b)(2), before clause (A), the words “When the declaration is filed and the deposit is made under paragraph (1) of this subsection” are substituted for “shall thereupon” for clarity. The word “immediately” is omitted as surplus. In clause (A), the words “possession of the property is given to Amtrak” are substituted for “the parties in possession are required to surrender possession to the Corporation” to eliminate unnecessary words. Clause (B) is substituted for 45:545(d)(5) (last sentence) to eliminate unnecessary words.

In subsection (b)(3), the words “of money” are omitted as surplus. The words “awarding that amount and interest on it” are substituted for “make an award and . . . accordingly. Such judgment shall include, as part of the just compensation awarded, interest” to eliminate unnecessary words. The words “of interest” are added for clarity. The words “finally . . . as the value of the property on the date of taking” and “on such date” are omitted as surplus.

In subsection (b)(4), the word “award” is substituted for “compensation finally awarded” for consistency and to eliminate unnecessary words. The words “of the money . . . by any person entitled to compensation” and “amount of the” are omitted as surplus.

In subsection (c)(1), before clause (A), the words “terms for”, “at issue”, “to the Corporation”, “and conditions”, “for the property”, “in any event”, “from the Corporation”, and “to the Corporation on such reasonable terms and conditions as it may prescribe, including just compensation” are omitted as surplus. In clause (A), the words “of the property to the Corporation” are omitted as surplus. In clause (B), the words “either by sale or by exercising its right of eminent domain under subsection (a) of this section” are substituted for “which is available for sale on reasonable terms to the Corporation, or available to the Corporation by the exercise of its authority under section 545(d) of this title” for clarity and to eliminate unnecessary words.

In subsection (c)(3), the words “reconvey . . . an interest conveyed to Amtrak under this subsection or prior comparable provision of law” are substituted for “convey title or other interest in such property” for consistency in the revised title and to eliminate unnecessary words. The words “regardless of when the proceeding was brought” are substituted for section 9(b) (less words in parentheses) of the Independent Safety Board Act Amendments of 1990 (Public Law 101-641, 104 Stat. 4658) to eliminate unnecessary words.

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of this title, and section 101 of Pub. L. 104-88, set out as a note under section 701 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of this title.

### § 24312. Labor standards

(a) **PREVAILING WAGES AND HEALTH AND SAFETY STANDARDS.**—Amtrak shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under an agreement made under section 24308(a) of this title will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141-3144, 3146, and 3147 of title 40. Amtrak may make such an agreement only after being assured that required labor standards will be maintained on the construction work. Health and safety standards prescribed by the Secretary under section 3704 of title 40 apply to all construction work performed under such an agreement, except for construction work performed by a rail carrier.

(b) **WAGE RATES.**—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed to comply with sections 3141-3144, 3146, and 3147 of title 40.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 916; Pub. L. 105-134, title I, §§101(f), 105(c), 121(a), Dec. 2, 1997, 111 Stat. 2572-2574; Pub. L. 107-217, §3(n)(4), Aug. 21, 2002, 116 Stat. 1302.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 24312(a) .....  | 45:565(d).         | Oct. 30, 1970, Pub. L. 91-518, §405(d), 84 Stat. 1337.   |
| 24312(b) .....  | 45:565(e).         | Oct. 30, 1970, Pub. L. 91-518, §405(e), 84 Stat. 1337; Aug. 13, 1981, Pub. L. 97-35, §1177(b), 95 Stat. 692. |

In subsection (a)(1), the words “take such action as may be necessary to”, “the performance of”, “with the assistance of funds received”, “contract or”, “at rates”, and “adequate” are omitted as surplus.

In subsection (a)(2), the words “provided for” and “and pursuant to” are omitted as surplus.

In subsection (b)(1), the words “Except as provided in paragraph (2) of this subsection” are omitted as surplus.

#### REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (b), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

#### AMENDMENTS

2002—Subsec. (a). Pub. L. 107-217, §3(n)(4)(A), substituted “sections 3141-3144, 3146, and 3147 of title 40” for “the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a-276a-5)” and “section 3704 of title 40” for “section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333)”.

Subsec. (b). Pub. L. 107-217, §3(n)(4)(B), substituted “sections 3141-3144, 3146, and 3147 of title 40” for “the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a-276a-5)”.

1997—Subsec. (a)(1). Pub. L. 105-134, §121(a)(2), redesignated par. (1) as subsec. (a).

Pub. L. 105-134, §§101(f), 105(c), struck out “, 24701(a), or 24704(b)(2)” after “24308(a)”.

Subsec. (a)(2). Pub. L. 105-134, §121(a)(3), redesignated par. (2) as subsec. (b).

Subsec. (b). Pub. L. 105-134, §121(a)(1), (3), redesignated subsec. (a)(2) as (b), inserted heading, and struck out former subsec. (b), which read as follows:

“(b) **CONTRACTING OUT.**—(1) Amtrak may not contract out work normally performed by an employee in a bargaining unit covered by a contract between a labor organization and Amtrak or a rail carrier that provided intercity rail passenger transportation on October 30, 1970, if contracting out results in the layoff of an employee in the bargaining unit.

“(2) This subsection does not apply to food and beverage services provided on trains of Amtrak.”

#### CONTRACTING OUT

Pub. L. 105-134, title I, §121(b)-(d), Dec. 2, 1997, 111 Stat. 2574, 2575, provided that:

“(b) **AMENDMENT OF EXISTING COLLECTIVE BARGAINING AGREEMENT.**—

“(1) **CONTRACTING OUT.**—Any collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees before the date of enactment of this Act [Dec. 2, 1997] is deemed amended to include the language of section 24312(b) of title 49, United States Code, as that section existed on the day before the effective date [Dec. 2, 1997] of the amendments made by subsection (a) [amending this section].

“(2) **ENFORCEABILITY OF AMENDMENT.**—The amendment to any such collective bargaining agreement deemed to be made by paragraph (1) of this subsection

is binding on all parties to the agreement and has the same effect as if arrived at by agreement of the parties under the Railway Labor Act [45 U.S.C. 151 et seq.].

“(c) CONTRACTING-OUT ISSUES TO BE INCLUDED IN NEGOTIATIONS.—Proposals on the subject matter of contracting out work, other than work related to food and beverage service, which results in the layoff of an Amtrak employee—

“(1) shall be included in negotiations under section 6 of the Railway Labor Act (45 U.S.C. 156) between Amtrak and an organization representing Amtrak employees, which shall be commenced by—

“(A) the date on which labor agreements under negotiation on the date of enactment of this Act [Dec. 2, 1997] may be re-opened; or

“(B) November 1, 1999, whichever is earlier;

“(2) may, at the mutual election of Amtrak and an organization representing Amtrak employees, be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act; and

“(3) may not be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act, unless both Amtrak and the organization representing Amtrak employees agree to include it in the negotiation.

No contract between Amtrak and an organization representing Amtrak employees, that is under negotiation on the date of enactment of this Act, may contain a moratorium that extends more than 5 years from the date of expiration of the last moratorium.

“(d) NO INFERENCE.—The amendment made by subsection (a)(1) [amending this section] is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.”

#### § 24313. Rail safety system program

In consultation with rail labor organizations, Amtrak shall maintain a rail safety system program for employees working on property owned by Amtrak. The program shall be a model for other rail carriers to use in developing safety programs. The program shall include—

- (1) periodic analyses of accident information, including primary and secondary causes;
- (2) periodic evaluations of the activities of the program, particularly specific steps taken in response to an accident;
- (3) periodic reports on amounts spent for occupational health and safety activities of the program;
- (4) periodic reports on reduced costs and personal injuries because of accident prevention activities of the program;
- (5) periodic reports on direct accident costs, including claims related to accidents; and
- (6) reports and evaluations of other information Amtrak considers appropriate.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 917.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 24313 .....     | 45:646.            | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §807; added Oct. 5, 1978, Pub. L. 95-421, §13, 92 Stat. 929. |

In this section, before clause (1), the words “No later than January 1, 1979” are omitted as executed. The word “maintain” is substituted for “develop and imple-

ment” for clarity. The words “designed to serve as” and “required under this section” are omitted as surplus. In clause (1), the words “if known” are omitted as surplus. In clause (2), the words “undertaken” and “causes” are omitted as surplus. In clauses (3)–(6), the word “reports” is substituted for “identification” for clarity. In clause (3), the word “included” is omitted as surplus. In clause (4), the words “personal injuries” are substituted for “fatalities, and casualties” for consistency in the revised title. The word “activities” is added for clarity. In clause (6), the words “or data” and “necessary or” are omitted as surplus.

#### [§ 24314. Repealed. Pub. L. 105-134, title IV, § 404, Dec. 2, 1997, 111 Stat. 2586]

Section, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 917; Pub. L. 104-287, §5(48), Oct. 11, 1996, 110 Stat. 3393, related to Amtrak developing plan for demonstrating new technology that may increase train speed in intercity rail passenger system.

#### § 24315. Reports and audits

(a) AMTRAK ANNUAL OPERATIONS REPORT.—Not later than February 15 of each year, Amtrak shall submit to Congress a report that—

(1) for each route on which Amtrak provided intercity rail passenger transportation during the prior fiscal year, includes information on—

- (A) ridership;
- (B) passenger-miles;
- (C) the short-term avoidable profit or loss for each passenger-mile;
- (D) the revenue-to-cost ratio;
- (E) revenues;
- (F) the United States Government subsidy;
- (G) the subsidy not provided by the United States Government; and
- (H) on-time performance;

(2) provides relevant information about a decision to pay an officer of Amtrak more than the rate for level I of the Executive Schedule under section 5312 of title 5; and

(3) specifies—

- (A) significant operational problems Amtrak identifies; and
- (B) proposals by Amtrak to solve those problems.

(b) AMTRAK GENERAL AND LEGISLATIVE ANNUAL REPORT.—(1) Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year. The report—

(A) shall include a discussion and accounting of Amtrak’s success in meeting the goal of section 24902(b)<sup>1</sup> of this title; and

(B) may include recommendations for legislation, including the amount of financial assistance needed for operations and capital improvements, the method of computing the assistance, and the sources of the assistance.

(2) Amtrak may submit reports to the President and Congress at other times Amtrak considers desirable.

(c) SECRETARY’S REPORT ON EFFECTIVENESS OF THIS PART.—The Secretary of Transportation shall prepare a report on the effectiveness of

<sup>1</sup> See References in Text note below.

this part in meeting the requirements for a balanced transportation system in the United States. The report may include recommendations for legislation. The Secretary shall include this report as part of the annual report the Secretary submits under section 308(a) of this title.

(d) INDEPENDENT AUDITS.—An independent certified public accountant shall audit the financial statements of Amtrak each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally accepted auditing standards. A report of the audit shall be included in the report required by subsection (a) of this section.

(e) COMPTROLLER GENERAL AUDITS.—The Comptroller General may conduct performance audits of the activities and transactions of Amtrak. Each audit shall be conducted at the place at which the Comptroller General decides and under generally accepted management principles. The Comptroller General may prescribe regulations governing the audit.

(f) AVAILABILITY OF RECORDS AND PROPERTY OF AMTRAK AND RAIL CARRIERS.—Amtrak and, if required by the Comptroller General, a rail carrier with which Amtrak has made a contract for intercity rail passenger transportation shall make available for an audit under subsection (d) or (e) of this section all records and property of, or used by, Amtrak or the carrier that are necessary for the audit. Amtrak and the carrier shall provide facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Amtrak and the carrier may keep all reports and property.

(g) COMPTROLLER GENERAL'S REPORT TO CONGRESS.—The Comptroller General shall submit to Congress a report on each audit, giving comments and information necessary to inform Congress on the financial operations and condition of Amtrak and recommendations related to those operations and conditions. The report also shall specify any financial transaction or undertaking the Comptroller General considers is carried out without authority of law. When the Comptroller General submits a report to Congress, the Comptroller General shall submit a copy of it to the President, the Secretary, and Amtrak at the same time.

(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 918; Pub. L. 105-134, title II, §206, Dec. 2, 1997, 111 Stat. 2584.)

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                                       | <i>Source (Statutes at Large)</i>   |
|------------------------|---|---|
| 24315(b) .....         | 45:548(b).  | Oct. 30, 1970, Pub. L. 91-518, §308(b), 84 Stat. 1333; restated June 22, 1972, Pub. L. 92-316, §4, 86 Stat. 229; Nov. 3, 1973, Pub. L. 93-146, §8, 87 Stat. 551; May 26, 1975, Pub. L. 94-25, §4(a), 89 Stat. 90.       |
|                        | 45:851(d)(2).   | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, §701(d)(2); added May 30, 1980, Pub. L. 96-254, §205, 94 Stat. 412.  |
| 24315(c) .....         | 45:548(c).  | Oct. 30, 1970, Pub. L. 91-518, §308(c), 84 Stat. 1333; restated June 22, 1972, Pub. L. 92-316, §4, 86 Stat. 229; May 26, 1975, Pub. L. 94-25, §4(b), 89 Stat. 90; Aug. 13, 1981, Pub. L. 97-35, §1180(b), 95 Stat. 693. |
| 24315(d) .....         | 45:644(1)(A) (1st, 2d sentences), (B).                          | Oct. 30, 1970, Pub. L. 91-518, §805(1), 84 Stat. 1340.  |
| 24315(e) .....         | 45:644(2)(A) (1st, 2d sentences).                               | Oct. 30, 1970, Pub. L. 91-518, §805(2)(A), 84 Stat. 1340; Oct. 28, 1974, Pub. L. 93-496, §11, 88 Stat. 1531; Apr. 7, 1986, Pub. L. 99-272, §4007(a), 100 Stat. 108.   |
| 24315(f) .....         | 45:644(1)(A) (last sentence), (2)(A) (3d, last sentences), (B). | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §805(2)(B); added June 22, 1972, Pub. L. 92-316, §11(2), 86 Stat. 233; Apr. 7, 1986, Pub. L. 99-272, §4007(a)(2), 100 Stat. 108.  |
| 24315(g) .....         | 45:644(2)(C).   | Oct. 30, 1970, Pub. L. 91-518, §805(2)(C), 84 Stat. 1340; June 22, 1972, Pub. L. 92-316, §11(2), 86 Stat. 233.  |

In subsection (a)(2), the words “to . . . compensation” and “prescribed” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “(beginning with 1973)” are omitted as executed. The word “complete” is substituted for “comprehensive and detailed” to eliminate unnecessary words. The words “under this chapter” are omitted as surplus. The word “revenues” is substituted for “receipts” for consistency. In clause (B), the words “may include recommendations for legislation” are substituted for “At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable”, the words “the method of computing the assistance” are substituted for “the manner and form in which the amount of such assistance should be computed”, and the words “of the assistance” are substituted for “from which such assistance should be derived”, to eliminate unnecessary words.

In subsection (c), the words “(beginning with 1974)” are omitted as executed. The word “prepare” is substituted for “transmit to the President and to the Congress by March 15 of each year” for clarity because the report is now part of the annual report under 49:308(a). The words “Beginning in 1976” are omitted as executed. The word “Secretary” is substituted for “Department of Transportation” because of 49:102(b). The words “submits under section 308(a) of this title” are substituted for “to the Congress” for clarity.

In subsection (d), the words “independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States” are omitted as obsolete because only certified public accountants are used for the audit. Only noncertified public accountants licensed before December 30, 1970, who were already conducting audits were allowed to continue. The words “or places” are omitted because of 1:1. The words “financial statements” are substituted for “accounts” because audits are performed on financial statements, not accounts. The words “independent” and “annual” are omitted as surplus. The text of 45:644(1)(B) (last sentence) is omitted as surplus because those requirements are included in “generally accepted auditing standards”.

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 24315(a) .....         | 45:548(a).                | Oct. 30, 1970, Pub. L. 91-518, §308(a), 84 Stat. 1333; June 22, 1972, Pub. L. 92-316, §4, 86 Stat. 228; Sept. 29, 1979, Pub. L. 96-73, §113, 93 Stat. 542; Aug. 13, 1981, Pub. L. 97-35, §1180(a), 95 Stat. 693; restated Apr. 7, 1986, Pub. L. 99-272, §4005, 100 Stat. 107; June 22, 1988, Pub. L. 100-342, §18(d), 102 Stat. 637. |

In subsection (e), the word “rules” is omitted as being synonymous with “regulations”. The words “or places” are omitted because of 1:1. The word “appropriate” is omitted as surplus.

In subsection (f), the words “if required” are substituted for “To the extent . . . deems necessary” to eliminate unnecessary words. The words “the person conducting”, “The representatives of the Comptroller General”, “his representatives”, “as he may make of the financial transactions of the Corporation”, “things, or”, and “full” are omitted as surplus. The words “may keep” are substituted for “shall remain in possession and custody of” and “shall remain in the possession and custody of” to eliminate unnecessary words.

In subsection (g), the word “giving” is substituted for “The report to the Congress shall contain such” to eliminate unnecessary words. The words “as the Comptroller General may deem”, “as he may deem advisable”, “program, expenditure or other”, “observed in the course of the audit”, and “or made” are omitted as surplus.

#### REFERENCES IN TEXT

Section 24902(b) of this title, referred to in subsec. (b)(1)(A), was redesignated section 24902(a) and section 24902(e) was redesignated section 24902(b) by Pub. L. 105-134, title IV, § 405(b)(1)(A), Dec. 2, 1997, 111 Stat. 2586.

#### AMENDMENTS

1997—Subsec. (h). Pub. L. 105-134 added subsec. (h).

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsecs. (a), (b)(1), (c), and (d) of this section relating to requirements to submit regular periodic reports to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 3rd item on page 176 and the 6th and 7th items on page 204 of House Document No. 103-7.

#### FUNDING FOR VALUATION OF AMTRAK’S ASSETS

Pub. L. 108-447, div. H, title I, Dec. 8, 2004, 118 Stat. 3221, provided in part: “That the Secretary of Transportation is authorized to retain up to \$4,000,000 of the funds provided to be used to retain a consultant or consultants to assist the Secretary in preparing a comprehensive valuation of Amtrak’s assets to be completed not later than September 30, 2005: *Provided further*, That these funds shall be available to the Secretary of Transportation until expended: *Provided further*, That this valuation shall be used to retain a consultant or consultants to develop to the Secretary’s satisfaction a methodology for determining the avoidable and fully allocated costs of each Amtrak route: *Provided further*, That once the Secretary has approved the methodology for determining the avoidable and fully allocated costs of each Amtrak route, Amtrak shall apply that methodology in compiling an annual report to Congress on the avoidable and fully allocated costs of each of its routes, with the initial report for fiscal year 2005 to be submitted to the House and Senate Committees on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation before December 31, 2005, and each subsequent report to be submitted within 90 days after the end of the fiscal year to which the report pertains.”

#### REPORTS ON OPERATING LOSSES

Pub. L. 108-7, div. I, title III, § 350, Feb. 20, 2003, 117 Stat. 419, provided that: “On February 15, 2003, and on each year thereafter, the National Railroad Passenger Corporation shall submit to the appropriate Congressional Committees a report detailing the per passenger operating loss on each rail line.”

#### AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS

Pub. L. 105-134, title IV, § 414, Dec. 2, 1997, 111 Stat. 2589, provided that: “If, at any time, during a fiscal

year in which Amtrak receives Federal assistance, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—

“(1) the name of the individual or firm involved;

“(2) the purpose of the contract or arrangement; and

“(3) the amount and nature of Amtrak’s financial obligation under the contract.

This section applies only to contracts, renewals or extensions of contracts, or arrangements entered into after the date of the enactment of this Act [Dec. 2, 1997].”

#### [CHAPTER 245—REPEALED]

#### [§§ 24501 to 24506. Repealed. Pub. L. 105-134, title I, § 106(a), Dec. 2, 1997, 111 Stat. 2573]

Section 24501, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 919; Pub. L. 103-429, § 6(21), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104-88, title III, § 308(h), Dec. 29, 1995, 109 Stat. 947, related to status of Amtrak Commuter and applicable laws.

Section 24502, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 920, related to board of directors of Amtrak Commuter.

Section 24503, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 921, related to appointment and service of officers of Amtrak Commuter.

Section 24504, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 921, related to general authority of Amtrak Commuter.

Section 24505, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 921, related to Amtrak’s rights and responsibilities as relating to commuter rail passenger transportation.

Section 24506, Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 922, provided that certain powers and duties of Consolidated Rail Corporation were not affected by this chapter.

#### TRACKAGE RIGHTS NOT AFFECTED

Pub. L. 105-134, title I, § 106(c), Dec. 2, 1997, 111 Stat. 2573, provided that: “The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.”

#### CHAPTER 247—AMTRAK ROUTE SYSTEM

Sec.

24701. National rail passenger transportation system.

[24702 to 24705. Repealed.]

24706. Discontinuance.

[24707, 24708. Repealed.]

24709. International transportation.

#### AMENDMENTS

1997—Pub. L. 105-134, title I, §§ 101(a)(2), (b), (d), (e), 103-105(a), Dec. 2, 1997, 111 Stat. 2572, 2573, substituted “National rail passenger transportation system” for “Operation of basic system” in item 24701 and struck out item 24702 “Improving rail passenger transportation”, item 24703 “Route and service criteria”, item 24704 “Transportation requested by States, authorities, and other persons”, item 24705 “Additional qualifying routes”, item 24707 “Cost and performance review”, and item 24708 “Special commuter transportation”.

### § 24701. National rail passenger transportation system

Amtrak shall operate a national rail passenger transportation system which ties together existing and emergent regional rail passenger service and other intermodal passenger service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 923; Pub. L. 105–134, title I, §101(a)(1), Dec. 2, 1997, 111 Stat. 2572.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 24701(a) .....  | 45:561(b).         | Oct. 30, 1970, Pub. L. 91–518, §401(b), 84 Stat. 1335.   |
| 24701(b) .....  | 45:561(c).         | Oct. 30, 1970, Pub. L. 91–518, §401(c), 84 Stat. 1335; Nov. 3, 1973, Pub. L. 93–146, §9, 87 Stat. 551. |

In subsection (a), before clause (1), the text of 45:561(b) (1st sentence words after 3d comma) is omitted as obsolete because no regional transportation authority provided intercity rail passenger transportation after May 1, 1971. The words “On May 1, 1971” and “begin” are omitted as executed. The words “between points” and “either” are omitted as surplus. In clause (2), the words “under contract with Amtrak” are substituted for 45:561(b) (last sentence) for clarity and to eliminate unnecessary words. The words “at any time subsequent to May 1, 1971” are omitted as executed.

In subsection (b), the words “concerning auto-ferry service . . . railroad or any other” are omitted as surplus.

#### AMENDMENTS

1997—Pub. L. 105–134 substituted section catchline for former catchline which read “Operation of basic system” and amended text generally. Prior to amendment, text read as follows:

“(a) BY AMTRAK.—Amtrak shall provide intercity rail passenger transportation within the basic system unless the transportation is provided by—

“(1) a rail carrier with which Amtrak did not make a contract under section 401(a) of the Rail Passenger Service Act; or

“(2) a regional transportation authority under contract with Amtrak.

“(b) BY OTHERS WITH CONSENT OF AMTRAK.—Except as provided in section 24306 of this title, a person may provide intercity rail passenger transportation over a route over which Amtrak provides scheduled intercity rail passenger transportation under a contract under section 401(a) of the Act only with the consent of Amtrak.”

### [§§ 24702 to 24705. Repealed. Pub. L. 105–134, title I, §§101(b), 103–105(a), Dec. 2, 1997, 111 Stat. 2572, 2573]

Section 24702, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 923; Pub. L. 104–287, §5(48), Oct. 11, 1996, 110 Stat. 3393, related to carrying out plan to improve intercity rail passenger service.

Section 24703, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 924, provided route and service criteria for modifying or discontinuing routes.

Section 24704, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 925, related to application by States, regional or local authorities, or other persons requesting Amtrak to provide passenger rail service and criteria for decision.

Section 24705, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 926; Pub. L. 104–88, title III, §308(i), Dec. 29, 1995, 109 Stat. 947, related to providing service on routes recommended to be discontinued, criteria for deferring Secretary’s recommendation, and providing short haul demonstration routes.

### § 24706. Discontinuance

(a) NOTICE OF DISCONTINUANCE.—(1) Except as provided in subsection (b) of this section, at least 180 days before a discontinuance under section 24704<sup>1</sup> or or<sup>2</sup> discontinuing service over a route, Amtrak shall give notice of the discontinuance in the way Amtrak decides will give a State, a regional or local authority, or another person the opportunity to agree to share or assume the cost of any part of the train, route, or service to be discontinued.

(2) Notice of the discontinuance under section 24704<sup>1</sup> or paragraph (1) shall be posted in all stations served by the train to be discontinued at least 14 days before the discontinuance.

(b) DISCONTINUANCE FOR LACK OF APPROPRIATIONS.—(1) Amtrak may discontinue service under section 24704<sup>1</sup> or subsection (a)(1) during—

(A) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; and

(B) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(2) Amtrak shall notify each affected State or regional or local transportation authority of a discontinuance under this subsection as soon as possible after Amtrak decides to discontinue the service.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 927; Pub. L. 105–134, title I, §§101(c), 142(a), Dec. 2, 1997, 111 Stat. 2572, 2576.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)  | Source (Statutes at Large)  |
|-----------------|---|---|
| 24706(a)(1) ..  | 45:564(c)(4)(F)(ii).  | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §404(c)(4)(F); added Sept. 29, 1979, Pub. L. 96–73, §117, 93 Stat. 545; restated Aug. 13, 1981, Pub. L. 97–35, §1183(b), 95 Stat. 696.  |
| 24706(a)(2) ..  | 45:564(c)(4)(F)(i).   | Oct. 30, 1970, Pub. L. 91–518, §405(a) (1st, 2d sentences), 84 Stat. 1337; restated June 22, 1972, Pub. L. 92–316, §7(a), 86 Stat. 230.<br>Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §405(a) (last sentence); added Apr. 7, 1986, Pub. L. 99–272, §4016, 100 Stat. 110. |
| 24706(b) .....  | 45:564(c)(4)(F)(iii).   |   |
| 24706(c)(1) ..  | 45:565(a) (2d sentence).                                      |   |
|                 | 45:565(a) (last sentence).                                    | Oct. 30, 1970, Pub. L. 91–518, §405(b) (1st–3d sentences), 84 Stat. 1337.<br>Oct. 30, 1970, Pub. L. 91–518, §405(c), 84 Stat. 1337; restated June 22, 1972, Pub. L. 92–316, §7(c), 86 Stat. 230.  |
| 24706(c)(2) ..  | 45:565(a) (1st sentence).                                     |   |
|                 | 45:565(b) (1st sentence).                                     |   |
|                 | 45:565(c) (1st sentence words before 2d comma).               | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §405(g); added Aug. 13, 1981, Pub. L. 97–35, §1188(d), 95 Stat. 699.  |
| 24706(c)(3) ..  | 45:565(b) (2d sentence).                                      |   |
| 24706(c)(4) ..  | 45:565(b) (3d sentence).                                      |   |
| 24706(c)(5) ..  | 45:565(c) (1st sentence words after 2d comma, last sentence). |   |
| 24706(c)(6) ..  | 45:565(g).  |   |

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original.



In subsection (a)(1), the words “Except as provided in subsection (b) of this section” are added for clarity. The word “authority” is substituted for “agency” for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), before clause (A), the words “Notwithstanding the provisions of clause (ii)” are omitted as surplus. In clauses (A) and (B), the words “the benefit of” are omitted as surplus. In clause (A), the words “for such fiscal year” are omitted as surplus.

In subsection (c)(1), before clause (A), the words “Amtrak or” are substituted for 45:565(c) (1st sentence words before 2d comma) to eliminate unnecessary words because operations in the basic system have begun. The words “whether occurring before, on, or after January 1, 1975” and “without being limited to, such provisions as may be necessary for” are omitted as surplus. In clause (A), the words “to such employees” are omitted as surplus.

In subsection (c)(3), the words “section 11347 of this title” are substituted for and coextensive with “section 5(2)(f) of the Interstate Commerce Act” in section 405(b) of the Rail Passenger Service Act (Public Law 91-518, 84 Stat. 1337) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95-473, 92 Stat. 1466).

In subsection (c)(5), the words “be construed to” are omitted as surplus. The text of 45:565(c) (last sentence) is omitted as executed.

#### REFERENCES IN TEXT

Section 24704 of this title, referred to in text, was repealed by Pub. L. 105-134, title I, § 105(a), Dec. 2, 1997, 111 Stat. 2573.

#### AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105-134, § 101(c)(1)–(3), substituted “180 days” for “90 days” and “or discontinuing service over a route,” for “24707(a) or (b) of this title,” and inserted “or assume” after “agree to share”.

Subsec. (a)(2). Pub. L. 105-134, § 101(c)(4), which directed substitution of “paragraph (1)” for “section 24707(a) or (b) of this title”, was executed by making the substitution for “24707(a) or (b) of this title” to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 105-134, § 101(c)(5), which directed substitution of “subsection (a)(1)” for “section 24707(a) or (b) of this title”, was executed by making the substitution for “24707(a) or (b) of this title” to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 105-134, § 142(a), struck out subsec. (c) which related to employee protective arrangements.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 142(a) of Pub. L. 105-134 effective 180 days after Dec. 2, 1997, see section 142(c) of Pub. L. 105-134, set out in an Employee Protection Reforms note below.

#### EMPLOYEE PROTECTION REFORMS

Pub. L. 105-134, title I, §§ 141, 142, Dec. 2, 1997, 111 Stat. 2575, 2576, provided that:

##### “SEC. 141. RAILWAY LABOR ACT PROCEDURES.

“(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act [Dec. 2, 1997], notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

“(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation

Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act [Dec. 2, 1997].

“(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act [Dec. 2, 1997].

“(d) DISPUTE RESOLUTION.—(1) With respect to the dispute described in subsection (a) which—

“(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act [Dec. 2, 1997]; and

“(B) is not submitted to arbitration as described in subsection (c),

Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board shall immediately select such individual.

“(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad.

“(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act [45 U.S.C. 160] shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

“(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

“(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

“(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

“(e) NO PRECEDENT FOR FREIGHT.—Nothing in this Act [see Short Title of 1997 Amendment note set out under section 20101 of this title], or in any amendment made by this Act, shall affect the level of protection provided to freight railroad employees and mass transportation employees as it existed on the day before the date of enactment of this Act [Dec. 2, 1997].

##### “SEC. 142. SERVICE DISCONTINUANCE.

“(a) REPEAL.—Section 24706(c) is repealed.

“(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act [Dec. 2, 1997] between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

“(c) SPECIAL EFFECTIVE DATE.—Subsections (a) [amending this section] and (b) of this section shall take effect 180 days after the date of the enactment of this Act [Dec. 2, 1997].

“(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.”

**[§§ 24707, 24708. Repealed. Pub. L. 105–134, title I, § 101(d), (e), Dec. 2, 1997, 111 Stat. 2572]**

Section 24707, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 928, required annual route, financial, and performance reviews.

Section 24708, Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 929, related to continuing, modifying, or discontinuing passenger transportation routes.

**§ 24709. International transportation**

Amtrak may develop and operate international intercity rail passenger transportation between the United States and Canada and between the United States and Mexico. The Secretary of the Treasury and the Attorney General, in cooperation with Amtrak, shall maintain, consistent with the effective enforcement of the immigration and customs laws, en route customs inspection and immigration procedures for international intercity rail passenger transportation that will—

- (1) be convenient for passengers; and
- (2) result in the quickest possible international intercity rail passenger transportation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 929.)

**HISTORICAL AND REVISION NOTES**

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                      | <i>Source (Statutes at Large)</i>   |
|------------------------|--|---|
| 24709 .....            | 45:545(e)(7) (less words between parentheses). | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(e)(7) (less words between parentheses); added Nov. 3, 1973, Pub. L. 93–146, §6, 87 Stat. 551.  |
|                        | 45:545(i).                                     | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §305(i); added Oct. 28, 1974, Pub. L. 93–496, §4, 88 Stat. 1527; re-stated May 26, 1975, Pub. L. 94–25, §3, 89 Stat. 90; Sept. 29, 1979, Pub. L. 96–73, §106, 93 Stat. 539; Aug. 13, 1981, Pub. L. 97–35, §1176, 95 Stat. 692; Apr. 7, 1986, Pub. L. 99–272, §13031(h)(1), 100 Stat. 310. |

In this section, before clause (1), the words “points within”, “points in”, and “including Montreal, Canada; Vancouver, Canada; and Nuevo Laredo, Mexico” in 45:545(e)(7) are omitted as surplus. The words “establish and” in 45:545(i) (1st sentence) are omitted as executed. The words “trains operated in” are omitted as surplus.

**CHAPTER 249—NORTHEAST CORRIDOR IMPROVEMENT PROGRAM**

|         |  |
|---------|--|
| Sec.    |  |
| 24901.  | Definitions.                                     |
| 24902.  | Goals and requirements.                          |
| [24903. | Repealed.]                                       |
| 24904.  | General authority.                               |
| 24905.  | Coordination board and safety committee.         |
| 24906.  | Eliminating highway at-grade crossings.          |
| 24907.  | Note and mortgage.                               |
| 24908.  | Transfer taxes and levies and recording charges. |
| 24909.  | Authorization of appropriations.                 |

**AMENDMENTS**

1997—Pub. L. 105–134, title IV, §405(a), Dec. 2, 1997, 111 Stat. 2586, struck out item 24903 “Program master plan for Boston-New York main line”.

**§ 24901. Definitions**

In this chapter—

(1) “final system plan” means the final system plan (including additions) adopted by the United States Railway Association under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(2) “rail carrier” means an express carrier and a rail carrier as defined in section 10102 of this title, including Amtrak.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 930.)

**HISTORICAL AND REVISION NOTES**

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 24901(1) .....         | (no source).              |                                   |
| 24901(2) .....         | (no source).              |                                   |

This section is derived from 45:802 for clarity. That section contains definitions for the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 33). Title VII of that Act is the source of the source provisions restated in this chapter. However, other titles of that Act are not being restated because they are outside the scope of the restatement. Therefore, 45:802 is not being restated in this restatement and only the relevant definitions are accounted for in this chapter.

**REFERENCES IN TEXT**

The Regional Rail Reorganization Act of 1973, referred to in par. (1), is Pub. L. 93–236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

**§ 24902. Goals and requirements**

(a) **MANAGING COSTS AND REVENUES.**—Amtrak shall manage its operating costs, pricing policies, and other factors with the goal of having revenues derived each fiscal year from providing intercity rail passenger transportation over the Northeast Corridor route between the District of Columbia and Boston, Massachusetts, equal at least the operating costs of providing that transportation in that fiscal year.

(b) **PRIORITIES IN SELECTING AND SCHEDULING PROJECTS.**—When selecting and scheduling specific projects, Amtrak shall apply the following considerations, in the following order of priority:

(1) Safety-related items should be completed before other items because the safety of the passengers and users of the Northeast Corridor is paramount.

(2) Activities that benefit the greatest number of passengers should be completed before activities involving fewer passengers.

(3) Reliability of intercity rail passenger transportation must be emphasized.

(4) Trip-time requirements of this section must be achieved to the extent compatible with the priorities referred to in paragraphs (1)–(3) of this subsection.

(5) Improvements that will pay for the investment by achieving lower operating or maintenance costs should be carried out before other improvements.

(6) Construction operations should be scheduled so that the fewest possible passengers are inconvenienced, transportation is maintained, and the on-time performance of Northeast

Corridor commuter rail passenger and rail freight transportation is optimized.

(7) Planning should focus on completing activities that will provide immediate benefits to users of the Northeast Corridor.

(c) COMPATIBILITY WITH FUTURE IMPROVEMENTS AND PRODUCTION OF MAXIMUM LABOR BENEFITS.—Improvements under this section shall be compatible with future improvements in transportation and shall produce the maximum labor benefit from hiring individuals presently unemployed.

(d) AUTOMATIC TRAIN CONTROL SYSTEMS.—A train operating on the Northeast Corridor main line or between the main line and Atlantic City shall be equipped with an automatic train control system designed to slow or stop the train in response to an external signal.

(e) HIGH-SPEED TRANSPORTATION.—If practicable, Amtrak shall establish intercity rail passenger transportation in the Northeast Corridor that carries out section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210, 90 Stat. 121).

(f) EQUIPMENT DEVELOPMENT.—Amtrak shall develop economical and reliable equipment compatible with track, operating, and marketing characteristics of the Northeast Corridor, including the capability to meet reliable trip times under section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210, 90 Stat. 121) in regularly scheduled revenue transportation in the Corridor, when the Northeast Corridor improvement program is completed. Amtrak must decide that equipment complies with this subsection before buying equipment with financial assistance of the Government. Amtrak shall submit a request for an authorization of appropriations for production of the equipment.

(g) AGREEMENTS FOR OFF-CORRIDOR ROUTING OF RAIL FREIGHT TRANSPORTATION.—(1) Amtrak may make an agreement with a rail freight carrier or a regional transportation authority under which the carrier will carry out an alternate off-corridor routing of rail freight transportation over rail lines in the Northeast Corridor between the District of Columbia and New York metropolitan areas, including intermediate points. The agreement shall be for at least 5 years.

(2) Amtrak shall apply to the Interstate Commerce Commission for approval of the agreement and all related agreements accompanying the application as soon as the agreement is made. If the Commission finds that approval is necessary to carry out this chapter, the Commission shall approve the application and related agreements not later than 90 days after receiving the application.

(3) If an agreement is not made under paragraph (1) of this subsection, Amtrak, with the consent of the other parties, may apply to the Interstate Commerce Commission. Not later than 90 days after the application, the Commission shall decide on the terms of an agreement if it decides that doing so is necessary to carry out this chapter. The decision of the Commission is binding on the other parties.

(h) COORDINATION.—(1) The Secretary of Transportation shall coordinate—

(A) transportation programs related to the Northeast Corridor to ensure that the programs are integrated and consistent with the Northeast Corridor improvement program; and

(B) amounts from departments, agencies, and instrumentalities of the Government to achieve urban redevelopment and revitalization in the vicinity of urban rail stations in the Northeast Corridor served by intercity and commuter rail passenger transportation.

(2) If the Secretary finds significant non-compliance with this section, the Secretary may deny financing to a noncomplying program until the noncompliance is corrected.

(i) COMPLETION.—Amtrak shall give the highest priority to completing the program.

(j) APPLICABLE PROCEDURES.—No State or local building, zoning, subdivision, or similar or related law, nor any other State or local law from which a project would be exempt if undertaken by the Federal Government or an agency thereof within a Federal enclave wherein Federal jurisdiction is exclusive, including without limitation with respect to all such laws referenced herein above requirements for permits, actions, approvals or filings, shall apply in connection with the construction, ownership, use, operation, financing, leasing, conveying, mortgaging or enforcing a mortgage of (i) any improvement undertaken by or for the benefit of Amtrak as part of, or in furtherance of, the Northeast Corridor Improvement Project (including without limitation maintenance, service, inspection or similar facilities acquired, constructed or used for high speed trainsets) or chapter 241, 243, or 247 of this title or (ii) any land (and right, title or interest created with respect thereto) on which such improvement is located and adjoining, surrounding or any related land. These exemptions shall remain in effect and be applicable with respect to such land and improvements for the benefit of any mortgagee before, upon and after coming into possession of such improvements or land, any third party purchasers thereof in foreclosure (or through a deed in lieu of foreclosure), and their respective successors and assigns, in each case to the extent the land or improvements are used, or held for use, for railroad purposes or purposes accessory thereto. This subsection shall not apply to any improvement or related land unless Amtrak receives a Federal operating subsidy in the fiscal year in which Amtrak commits to or initiates such improvement.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 930; Pub. L. 104-205, title III, §334, Sept. 30, 1996, 110 Stat. 2974; Pub. L. 105-134, title IV, §405(b)(1), Dec. 2, 1997, 111 Stat. 2586.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)           | Source (Statutes at Large)  |
|-----------------|------------------------------|---|
| 24902(a) .....  | 45:853(1)(A).                | Feb. 5, 1976, Pub. L. 94-210, §703(1)(A), 90 Stat. 121; Oct. 5, 1978, Pub. L. 95-421, §8(1), 92 Stat. 927; May 30, 1980, Pub. L. 96-254, §202(1), (2), 94 Stat. 410; Jan. 14, 1983, Pub. L. 97-468, §301(1), 96 Stat. 2547. |
|                 | 45:853(1)(B) (1st sentence). | Feb. 5, 1976, Pub. L. 94-210, §703(1)(B), 90 Stat. 121; Oct. 5, 1978, Pub. L. 95-421, §8(2), 92 Stat. 927.  |

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised<br/>Section</i> | <i>Source (U.S. Code)</i>                | <i>Source (Statutes at Large)</i>  |
|----------------------------|--|--|
|                            | 45:853(2)(A).                            | Feb. 5, 1976, Pub. L. 94-210, § 703(2)(A), 90 Stat. 122; Oct. 5, 1978, Pub. L. 95-421, § 5(1), 92 Stat. 926.   |
|                            | 45:853(2)(B).                            | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 703(2)(B); added Oct. 5, 1978, Pub. L. 95-421, § 5(2), 92 Stat. 927.  |
|                            | 45:853(3)(A).                            | Feb. 5, 1976, Pub. L. 94-210, § 703(3)(A), 90 Stat. 122; May 30, 1980, Pub. L. 96-254, § 203(1), 94 Stat. 410.   |
|                            | 45:853(4) (1st sentence).                | Feb. 5, 1976, Pub. L. 94-210, § 703(1)(C), (4), 90 Stat. 121, 122.   |
|                            | 45:853(6).                               | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 703(6); added May 30, 1980, Pub. L. 96-254, § 203(2), 94 Stat. 411.   |
|                            | 45:855(b).                               | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 705(b); added May 30, 1980, Pub. L. 96-254, § 206(a), 94 Stat. 413; Jan. 14, 1983, Pub. L. 97-468, § 301(5)(B), 96 Stat. 2550.          |
| 24902(b) .....             | 45:851(d)(1).                            | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 701(d)(1); added May 30, 1980, Pub. L. 96-254, § 205, 94 Stat. 412.   |
| 24902(c)(1) ..             | 45:853(1)(B) (last sentence).            |  |
| 24902(c)(2), (3).          | 45:855(b).<br>45:854(i).                 | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 704(i); added May 30, 1980, Pub. L. 96-254, § 204(b), 94 Stat. 411.   |
| 24902(d) .....             | 45:855(b).<br>45:853(4) (last sentence). |  |
| 24902(e) .....             | 45:853(7).                               | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 703(7); added May 30, 1980, Pub. L. 96-254, § 209, 94 Stat. 414.  |
| 24902(f) .....             | 45:853(1)(C).                            |  |
| 24902(g) .....             | 45:431(k).                               | Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, § 202(k); added June 22, 1988, Pub. L. 100-342, § 9, 102 Stat. 628.   |
| 24902(h) .....             | 45:853(1)(E).                            | Feb. 5, 1976, Pub. L. 94-210, § 703(1)(E), 90 Stat. 121; May 30, 1980, Pub. L. 96-254, § 202(3), 94 Stat. 410.   |
| 24902(i) .....             | 45:855(b).<br>45:853(5).                 | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 703(5); added Oct. 5, 1978, Pub. L. 95-421, § 8(3), 92 Stat. 927.   |
| 24902(j) .....             | 45:855(b).<br>45:853(3)(B).              | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 703(3)(B); added May 30, 1980, Pub. L. 96-254, § 203(1), 94 Stat. 410.  |
| 24902(k) .....             | 45:855(b).<br>45:854(c)(1).              | Feb. 5, 1976, Pub. L. 94-210, § 704(c)(1), 90 Stat. 123; May 30, 1980, Pub. L. 96-254, § 210(1), 94 Stat. 414.   |
|                            | 45:854(c)(2).                            | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 704(c)(2); added May 30, 1980, Pub. L. 96-254, § 210(2), 94 Stat. 414.  |
| 24902(l) .....             | 45:545(h) (last sentence).               | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, § 305(h) (last sentence); added Oct. 28, 1974, Pub. L. 93-496, § 3, 88 Stat. 1527; Sept. 29, 1979, Pub. L. 96-73, § 106, 93 Stat. 539. |
|                            | 45:855(b).                               |  |

In this section, the word “program” is substituted for “project” for consistency in this chapter.

In subsection (a)(1)(A) and (B), the words “schedule” and “appropriate” are omitted as surplus.

In subsection (a)(2), the words “in order” and “rail” are omitted as surplus.

In subsection (a)(4)–(6), the words “the goals contained in” are omitted as surplus.

In subsection (a)(4), the text of 45:853(2)(B) is omitted as executed.

In subsection (a)(5), the words “to all users of rail freight service located” are omitted as surplus. The word “in” is substituted for “on” as being more appro-

priate. The words “all . . . which remain” are omitted as surplus.

In subsection (a)(6), the word “mobile” is added for consistency in this chapter. The word “on” is substituted for “aboard trains operated in” to eliminate unnecessary words. The word “passenger” after “rail” is added for consistency in this chapter. The word “Washington” is omitted as surplus.

In subsection (b), the words “each fiscal year” are substituted for “annual” for clarity. The text of 45:851(d)(1)(A) and (B) is omitted as obsolete.

In subsection (c)(1), the words “in his sole discretion” are omitted as surplus.

In subsection (c)(2)(B), the words “and in the amounts” are omitted as surplus.

In subsection (d), the words “department, agencies, and instrumentalities of the United States Government” are substituted for “relevant Federal agencies, including the Federal Communications Commission” for consistency in the revised title and with other titles of the United States Code. The words “shall assist Amtrak under subsection (a)(6) of this section” are substituted for “shall take such actions as are necessary to achieve this goal” for clarity. The words “including necessary licensing, construction, operation, and maintenance” are omitted as surplus.

In subsection (e), before clause (1), the words “of priority” are added for clarity. In clause (2), the words “Potential ridership should be considered” are omitted as surplus. In clause (5), the words “Reducing maintenance cost levels is desirable” are omitted as surplus. The words “before other improvements” are added for clarity.

In subsection (f), the words “accomplished in a manner which is”, “the accomplishment in the . . . of additional”, and “levels” are omitted as surplus.

In subsection (g), the words “after April 1, 1990” are omitted as executed. The words “between [sic] Washington, D.C., and Boston, Massachusetts” are omitted as surplus. The words “or between the main line and Atlantic City” are substituted for “on the feeder line referred to in section 854(a)(1)(B) of this title” for clarity. The text of 45:431(k)(2) is omitted as executed.

In subsection (h), the text of 45:853(1)(E) (1st–4th sentences) and the word “Thereafter” are omitted as executed. The words “carries out” are substituted for “achieves the service goals specified in” for consistency in this section.

In subsection (i), the words “rolling stock and related”, “designed to be”, “set forth”, and “specified” are omitted as surplus. The text of 45:853(5) (last sentence words after “such equipment”) is omitted as obsolete.

In subsection (j)(1), the words “Within 6 months after May 30, 1980, the Secretary shall develop plans” and the text of 45:853(3)(B)(v) are omitted as executed. The words “rail lines” are substituted for “lines” for clarity and consistency in this chapter. The words “Washington” and “on such terms and conditions as the parties may agree” are omitted as surplus.

In subsection (j)(2), the words “including the provision of service use of tracks and facilities as provided in such application” are omitted as surplus.

In subsection (j)(3), the words “other parties” are substituted for “involved rail freight carriers” to eliminate unnecessary words. The words “conditions and” are omitted as surplus.

In subsection (k)(1), before clause (A), the words “take all steps necessary to” are omitted as surplus. In clause (A), the words “all”, “implementation of”, and “under this subchapter” are omitted as surplus. Clause (B) is substituted for 45:854(c)(2) to eliminate surplus and obsolete words.

## REFERENCES IN TEXT

Section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subssecs. (e) and (f), is section 703(1)(E) of Pub. L. 94-210, which was classified to section 853(1)(E) of Title 45, Railroads, and was repealed and reenacted as subsec. (h) of this section by Pub. L. 103-272, §§ 1(e), 7(b), July 5, 1994, 108 Stat. 932, 1379.

## AMENDMENTS

1997—Pub. L. 105-134 redesignated subsec. (b) as (a) and subsecs. (e) to (m) as (b) to (j), respectively, in subsec. (j) struck out “(m)” after “This subsection”, and struck out former subsecs. (a), (c), and (d) which related to Northeast Corridor improvement plan, cost sharing for nonoperational facilities, and passenger radio mobile telephone service, respectively.

1996—Subsec. (m). Pub. L. 104-205 added subsec. (m).

## ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of this title, and section 101 of Pub. L. 104-88, set out as a note under section 701 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of this title.

## [§ 24903. Repealed. Pub. L. 105-134, title IV, § 405(a), Dec. 2, 1997, 111 Stat. 2586]

Section, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 933; Pub. L. 104-287, §5(48), Oct. 11, 1996, 110 Stat. 3393, related to program master plan for Boston-New York main line.

## § 24904. General authority

(a) GENERAL.—To carry out this chapter and the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), Amtrak may—

(1) acquire, maintain, and dispose of any interest in property used to provide improved high-speed rail transportation under section 24902 of this title;

(2) acquire, by condemnation or otherwise, any interest in real property that Amtrak considers necessary to carry out the goals of section 24902;

(3) provide for rail freight, intercity rail passenger, and commuter rail passenger transportation over property acquired under this section;

(4) improve rail rights of way between Boston, Massachusetts, and the District of Columbia (including the route through Springfield, Massachusetts, and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line) to achieve the goals of section 24902 of providing improved high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, and intermediate intercity markets;

(5) acquire, build, improve, and install passenger stations, communications and electric power facilities and equipment, public and private highway and pedestrian crossings, and other facilities and equipment necessary to provide improved high-speed rail passenger transportation over rights of way improved under clause (4) of this subsection;

(6) make agreements with other carriers and commuter authorities to grant, acquire, or make arrangements for rail freight or commuter rail passenger transportation over, rights of way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitaliza-

tion and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.); and

(7) appoint a general manager of the Northeast Corridor improvement program.

(b) COMPENSATORY AGREEMENTS.—Rail freight and commuter rail passenger transportation provided under subsection (a)(3) of this section shall be provided under compensatory agreements with the responsible carriers.

(c) COMPENSATION FOR TRANSPORTATION OVER CERTAIN RIGHTS OF WAY AND FACILITIES.—(1) An agreement under subsection (a)(6) of this section shall provide for reasonable reimbursement of costs but may not cross-subsidize intercity rail passenger, commuter rail passenger, and rail freight transportation.

(2) If the parties do not agree, the Interstate Commerce Commission shall order that the transportation continue over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) and shall determine compensation (without allowing cross-subsidization between intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Commission shall assign to a rail freight carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.

(3) This subsection does not prevent the parties from making an agreement under subsection (a)(6) of this section after the Commission makes a decision under this subsection.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 934; Pub. L. 103-429, §6(22), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 105-134, title IV, §405(b)(2), Dec. 2, 1997, 111 Stat. 2586.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

| Revised Section                 | Source (U.S. Code)                         | Source (Statutes at Large)  |
|---------------------------------|--|---|
| 24904(a)<br>(words before (1)). | 45:851(a) (words before (1)).              | Feb. 5, 1976, Pub. L. 94-210, §701(a)(1), (3)-(8), 90 Stat. 119.  |
| 24904(a)(1) ..                  | 45:851(a)(1).<br>45:855(b).                | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, §705(b); added May 30, 1980, Pub. L. 96-254, §206(a), 94 Stat. 413; Jan. 14, 1983, Pub. L. 97-468, §301(5)(B), 96 Stat. 2550.  |
| 24904(a)(2) ..                  | 45:854(h).                                 | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, §704(h); added May 30, 1980, Pub. L. 96-254, §204(b), 94 Stat. 411.  |
| 24904(a)(3) ..                  | 45:855(b).<br>45:851(a)(3) (less proviso). |   |
| 24904(a)(4) ..                  | 45:851(a)(4).                              |   |
| 24904(a)(5) ..                  | 45:851(a)(5).                              |   |
| 24904(a)(6) ..                  | 45:562(a)(2) (1st sentence).               | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §402(a)(2); added Feb. 5, 1976, Pub. L. 94-210, §706(a), 90 Stat. 123; May 30, 1980, Pub. L. 96-254, §206(a), 94 Stat. 412; Apr. 7, 1986, Pub. L. 99-272, §4017(b)(2)-(5), 100 Stat. 111. |

HISTORICAL AND REVISION NOTES—CONTINUED  
PUB. L. 103-272

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>              | <i>Source (Statutes at Large)</i> |
|------------------------|--|-----------------------------------|
|                        | 45:851(a)(6) (words before 8th comma). |                                   |
| 24904(a)(7) ..         | 45:851(a)(7).                          |                                   |
| 24904(a)(8) ..         | 45:851(a)(8).                          |                                   |
| 24904(b) .....         | 45:851(a)(3) (proviso).                |                                   |
| 24904(c)(1) ..         | 45:851(a)(6) (words after 8th comma).  |                                   |
| 24904(c)(2) ..         | 45:562(a)(2) (2d-5th sentences).       |                                   |
| 24904(c)(3) ..         | 45:562(a)(2) (last sentence).          |                                   |

In subsection (a), before clause (1), the words “the purposes of” are omitted as surplus. The words “this part” are substituted for “this subchapter, the Rail Passenger Service Act [45 U.S.C. 501 et seq.]” for clarity because subchapter III of chapter 17 of title 45, United States Code, and the Rail Passenger Service Act make up part C of subtitle V of the revised title. In clause (1), the words “by purchase, lease, exchange, gift, or otherwise, and to hold . . . sell, lease, or otherwise”, “real or personal”, and “which is necessary or” are omitted as surplus. The words “to provide” are substituted for “establishing and maintaining” for consistency in this chapter. In clause (2), the words “for the United States, by lease, purchase, condemnation, or otherwise” and “(including lands, easements, and rights-of-way, and any other property interests, including contract rights) are omitted as surplus. In clause (3), the words “the continuous operation and maintenance of” are omitted as surplus. In clause (4), the words “Washington” and “at its option” are omitted as surplus. In clause (5), the words “other safety facilities or equipment . . . any” and “which it determines are” are omitted as surplus. In clause (6), the words “Notwithstanding any other provision of this chapter”, “tracks, rights-of-way and other”, and “by the Corporation” in 45:562(a)(2) (1st sentence) and “other railroads” and “trackage rights, contract services, and other appropriate” in 45:851(a)(6) are omitted as surplus. In clause (7), the words “qualified individual to serve as the” are omitted as surplus. In clause (8), the words “on a basis which is consistent with, and” are omitted as surplus.

In subsection (c)(1), the words “shall provide for” are substituted for “to be on such terms and conditions as are necessary to” to eliminate unnecessary words. The word “reasonable” is substituted for “on an equitable and fair basis” for consistency in the revised title.

In subsection (c)(2), the words “If the parties do not” are substituted for “In the event of a failure to” for clarity. The words “to be provided”, “consistent with equitable and fair compensation principles”, “proper amount of”, “the provision of”, and “the date of” are omitted as surplus.

In subsection (c)(3), the words “either before or” are omitted as surplus because the National Railroad Passenger Corporation may make agreements on arrangements for rail freight or commuter rail transportation under subsection (a)(6) of this section and this subsection applies only when there is no agreement.

PUB. L. 103-429

This amends 49:24904(a)(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 934).

REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in subsecs. (a) and (c)(2), is Pub. L. 93-236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

The Railroad Revitalization and Regulatory Reform Act of 1976, referred to in subsecs. (a)(6) and (c)(2), is

Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 45 and Tables.

AMENDMENTS

1997—Subsec. (a)(6) to (8). Pub. L. 105-134 inserted “and” at end of par. (6), substituted a period for “; and” at end of par. (7), and struck out par. (8) which read as follows: “make agreements with telecommunications common carriers, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.), to continue existing, and establish new and improved, passenger radio mobile telephone service in the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2).”

1994—Subsec. (a)(2). Pub. L. 103-429 inserted “, by condemnation or otherwise,” after “acquire”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of this title, and section 101 of Pub. L. 104-88, set out as a note under section 701 of this title. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of this title.

**§ 24905. Coordination board and safety committee**

(a) **NORTHEAST CORRIDOR COORDINATION BOARD.**—(1) The Northeast Corridor Coordination Board is composed of the following members:

(A) one individual from each commuter authority (as defined in section 1135(a) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1104)) that provides or makes a contract to provide commuter rail passenger transportation over the main line of the Northeast Corridor.

(B) 2 individuals selected by Amtrak.

(C) one individual selected by the Consolidated Rail Corporation.

(2) The Board shall recommend to Amtrak—

(A) policies that ensure equitable access to the Northeast Corridor, considering the need for equitable access by commuter and intercity rail passenger transportation and the requirements of section 24308(c) of this title; and

(B) equitable policies for the Northeast Corridor related to—

- (i) dispatching;
- (ii) public information;
- (iii) maintaining equipment and facilities;
- (iv) major capital facility investments; and
- (v) harmonizing equipment acquisitions, rates, and schedules.

(3) The Board may recommend to the board of directors and President of Amtrak action necessary to resolve differences on providing transportation, except for facilities and transpor-

tation matters under section 24308(a) or 24904(a)(5) and (c) of this title.

(b) NORTHEAST CORRIDOR SAFETY COMMITTEE.—(1) The Northeast Corridor Safety Committee is composed of members appointed by the Secretary of Transportation. The members shall be representatives of—

- (A) the Secretary;
- (B) Amtrak;
- (C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;
- (D) commuter agencies;
- (E) rail passengers;
- (F) rail labor; and
- (G) other individuals and organizations the Secretary decides have a significant interest in rail safety.

(2) The Secretary shall consult with the Committee about safety improvements on the Northeast Corridor main line. The Committee shall meet at least once every 2 years to consider safety matters on the main line.

(3) At the beginning of the first session of each Congress, the Secretary shall submit a report to Congress on the status of efforts to improve safety on the Northeast Corridor main line. The report shall include the safety recommendations of the Committee and the comments of the Secretary on those recommendations.

(4) The Committee shall cease to exist on January 1, 1999, or on another date the Secretary decides is appropriate. The Secretary shall notify Congress in writing of a decision to terminate the Committee on another date.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 935.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i>           | <i>Source (U.S. Code)</i>    | <i>Source (Statutes at Large)</i>   |
|----------------------------------|------------------------------|---|
| 24905(a)(1) ..                   | 45:585(c).                   | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §505(c); added Jan. 14, 1983, Pub. L. 97–468, §508(2), 96 Stat. 2554.   |
| 24905(a)(2) ..                   | 45:585(a).                   | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §505(a), (b); added Aug. 13, 1981, Pub. L. 97–35, §1137, 95 Stat. 650; Jan. 14, 1983, Pub. L. 97–468, §508(1), 96 Stat. 2554. |
| 24905(a)(3) ..<br>24905(b) ..... | 45:585(b).<br>45:431 (note). | June 22, 1988, Pub. L. 100–342, §11, 102 Stat. 629; Sept. 3, 1992, Pub. L. 102–365, §18, 106 Stat. 982.   |

In subsection (a)(2), before clause (A), the words “develop and” are omitted as surplus. In clause (B)(v), the word “rates” is substituted for “fares, tariffs” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(3), the words “of opinions” and “(among or between the Corporation, Amtrak Commuter, other railroads, commuter authorities, and other State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight service), with respect to all matters” are omitted as surplus. The words “for facilities and transportation matters under” are substituted for “those conferred on the Commission in” for clarity.

In subsection (b)(1), the words “Within 30 days after the date of enactment of this Act . . . shall establish” are omitted as executed.

In subsection (b)(3), the words “each Congress” are substituted for “the 103rd Congress, and biennially thereafter” to eliminate unnecessary words. The words

“pursuant to the provisions of this section” are omitted as unnecessary.

#### § 24906. Eliminating highway at-grade crossings

(a) PLAN.—In consultation with the States on the main line of the Northeast Corridor, the Secretary of Transportation shall develop a plan not later than September 30, 1993, to eliminate all highway at-grade crossings of the main line by not later than December 31, 1997. The plan may provide that eliminating a crossing is not required if—

- (1) impracticable or unnecessary; and
- (2) using the crossing is consistent with conditions the Secretary considers appropriate to ensure safety.

(b) AMTRAK’S SHARE OF COSTS.—Amtrak shall pay 20 percent of the cost of eliminating each highway at-grade crossing under the plan.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 936.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 24906(a) .....         | 45:650(a), (b).           | Oct. 30, 1970, Pub. L. 91–518, 84 Stat. 1327, §811; added Oct. 27, 1992, Pub. L. 102–533, §2, 106 Stat. 3515. |
| 24906(b) .....         | 45:650(c).                |   |

#### § 24907. Note and mortgage

(a) GENERAL AUTHORITY.—To secure amounts expended by the United States Government to acquire and improve rail property designated under section 206(c)(1)(C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and (D)), the Secretary of Transportation may obtain a note of indebtedness from, and make a mortgage agreement with, Amtrak to establish a mortgage lien on the property for the Government. The note and mortgage may not supersede section 24904 of this title.

(b) EXEMPTIONS FROM LAWS AND REGULATIONS.—The note and agreement under subsection (a) of this section, and a transaction related to the note or agreement, are exempt from any United States, State, or local law or regulation that regulates securities or the issuance of securities. The note, agreement, or transaction under this section has the same immunities from other laws that section 601 of the Act (45 U.S.C. 791) gives to transactions that comply with or carry out the final system plan. The transfer of rail property because of the note, agreement, or transaction has the same exemptions, privileges, and immunities that the Act (45 U.S.C. 701 et seq.) gives to a transfer ordered or approved by the special court under section 303(b) of the Act (45 U.S.C. 743(b)).

(c) IMMUNITY FROM LIABILITY AND INDEMNIFICATION.—Amtrak, its board of directors, and its individual directors are not liable because Amtrak has given or issued the note or agreement to the Government under subsection (a) of this section. Immunity granted under this subsection also applies to a transaction related to the note or agreement. The Government shall indemnify Amtrak, its board, and individual directors against costs and expenses actually and reasonably incurred in defending a civil action testing

the validity of the note, agreement, or transaction.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 936.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 24907(a) .....  | 45:854(e).         | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, §704(e)-(g); added Oct. 19, 1976, Pub. L. 94-555, §217(c), 90 Stat. 2627. |
| 24907(b) .....  | 45:854(f).         |  |
| 24907(c) .....  | 45:854(g).         |  |

In subsection (a), the words “In order . . . protect and”, “securing such expenditure”, “infringe upon or”, and “the authority conferred upon the National Railroad Passenger Corporation by” are omitted as surplus.

In subsections (b) and (c), the words “note” and “agreement” are substituted for “agreement, security, or obligation” for consistency because the Secretary of Transportation gets only notes and mortgage agreements under the source provisions restated in subsection (a) of this section.

In subsection (b), the words “obtained by the Secretary” and “the provisions of subtitle IV of title 49, the Securities Act of 1933 (15 U.S.C. 77a et seq.), and . . . other” are omitted as surplus. The words “has the same” are substituted for “shall enjoy all of the” for clarity. The words “conveyance or” are omitted, and the word “transfer” is substituted for “conveyances”, for consistency in this subtitle. The words “(including section 303(e) thereof [45 U.S.C. 743(e)])” are omitted as surplus. The words “section 303(b)” are substituted for “section 306(b)” to correct a mistake in section 217(c) of the Rail Transportation Improvement Act (Public Law 94-555, 90 Stat. 2628).

In subsection (c), the words “to any party for any damages, or in any other matter” are omitted as surplus. The word “because” is substituted for “by reason of the fact that” to eliminate unnecessary words. The words “related to the note or agreement” are substituted for “in connection with” for clarity. The words “all” and “(including fees of accountants, experts, and attorneys)” are omitted as surplus. The words “a civil action” are substituted for “any litigation” for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words “legal” and “given, issued, or entered into” are omitted as surplus.

#### REFERENCES IN TEXT

The Regional Rail Reorganization Act of 1973, referred to in subsecs. (a) and (b), is Pub. L. 93-236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§701 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 45 and Tables.

#### ABOLITION OF SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) of Title 45, Railroads.

#### § 24908. Transfer taxes and levies and recording charges

A transfer of an interest in rail property under this chapter is exempt from a tax or levy related to the transfer that is imposed by the United States Government, a State, or a political subdivision of a State. On payment of the appropriate and generally applicable charge for the service performed, a transferee or transferor may record an instrument and, consistent with

the final system plan, the release or removal of a pre-existing lien or encumbrance of record related to the interest transferred.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 937.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)  | Source (Statutes at Large)  |
|-----------------|---|---|
| 24908 .....     | 45:743(e) (words “title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 [45 U.S.C. 851 et seq.] or of”). | Jan. 2, 1974, Pub. L. 93-236, 87 Stat. 985, §303(e) (words “title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of”); added Feb. 5, 1976, Pub. L. 94-210, §601(d), 90 Stat. 84; Sept. 30, 1976, Pub. L. 94-436, §5 (related to title VII), 90 Stat. 1399. |

The words “or conveyances”, “(whether real, personal, or mixed)”, “which are made at any time”, “the purposes of”, “imposts”, “or on the recording of deeds, bills of sale, liens, encumbrances, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee”, “now or hereafter”, “to compensate . . . the cost of”, “such deeds, bills of sale, liens, encumbrances, or other”, and “the designations and applicable principles in” are omitted as surplus.

#### § 24909. Authorization of appropriations

(a) GENERAL.—(1) Not more than \$2,313,000,000 may be appropriated to the Secretary of Transportation to achieve the goals of section 24902(a)(1)<sup>1</sup> of this title. From this amount, the following amounts shall be expended by Amtrak:

(A) at least \$27,000,000 for equipment modification and replacement that a State or a local or regional transportation authority must bear because of the electrification conversion system of the Northeast Corridor under this chapter.

(B) \$30,000,000—

(i) to improve the main line track between the Northeast Corridor main line and Atlantic City, New Jersey, to ensure that the track, consistent with a plan New Jersey developed in consultation with Amtrak to provide rail passenger transportation between the Northeast Corridor main line and Atlantic City, New Jersey, would be of sufficient quality to allow safe rail passenger transportation at a minimum of 79 miles an hour not later than September 30, 1985; and

(ii) to promote rail passenger use of the track.

(C) necessary amounts to—

(i) develop Union Station in the District of Columbia;

(ii) install 189 track-miles, and renew 133 track-miles, of concrete ties with continuously welded rail between the District of Columbia and New York, New York;

(iii) install reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 track;

(iv) restore ditch drainage in concrete tie locations between the District of Columbia and New York, New York;

(v) undercut 83 track-miles between the District of Columbia and New York, New York;

<sup>1</sup> See References in Text note below.



(vi) rehabilitate bridges between the District of Columbia and New York, New York (including Hi line);

(vii) develop a maintenance of way equipment repair facility between the District of Columbia and New York, New York, and build maintenance of way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut;

(viii) stabilize the roadbed between the District of Columbia and New York, New York;

(ix) automate the Bush River Drawbridge at milepost 72.14;

(x) improve the New York Service Facility to develop rolling stock repair capability;

(xi) install a rail car washer facility at Philadelphia, Pennsylvania;

(xii) restore storage tracks and buildings at the Washington Service Facility;

(xiii) install centralized traffic control from Landlith, Delaware, to Philadelphia, Pennsylvania;

(xiv) improve track, including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution;

(xv) rehabilitate interlockings between the District of Columbia and New York, New York;

(xvi) paint the Connecticut River, Groton, and Pelham Bay bridges;

(xvii) provide additional catenary renewal and power supply upgrading between the District of Columbia and New York, New York;

(xviii) rehabilitate structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania;

(xix) install evacuation and fire protection facilities in tunnels in New York, New York;

(xx) improve the communication and signal systems between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line, and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line;

(xxi) improve the electric traction systems between Wilmington, Delaware, and Newark, New Jersey;

(xxii) install baggage rack restraints, seat back guards, and seat lock devices on 348 passenger cars operating in the Northeast Corridor;

(xxiii) install 44 event recorders and 10 electronic warning devices on locomotives operating within the Northeast Corridor; and

(xxiv) acquire cab signal test boxes and install 9 wayside loop code transmitters for use within the Northeast Corridor.

(2) The following additional amounts may be appropriated to the Secretary for expenditure by Amtrak:

(A) not more than \$150,000,000 to achieve the goal of section 24902(a)(3)<sup>1</sup> of this title.

(B) not more than \$120,000,000 to acquire interests in property in the Northeast Corridor.

(C) not more than \$650,000 to develop and use mobile radio frequencies for passenger radio mobile telephone service on high-speed rail passenger transportation.

(D) not more than \$20,000,000 to acquire and improve interests in rail property designated under section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)).

(E) not more than \$37,000,000 to carry out section 24902(a)(7) and (j)<sup>1</sup> of this title.

(b) EMERGENCY MAINTENANCE.—Not more than \$25,000,000 of the amount appropriated under the Act of February 28, 1975 (Public Law 94-6, 89 Stat. 11), may be used by Amtrak for emergency maintenance on rail property designated under section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C)).

(c) PRIORITY IN USING CERTAIN AMOUNTS.—Amounts appropriated under subsection (a)(2)(B) and (D) of this section shall be used first to repay, with interest, obligations guaranteed under section 602 of the Rail Passenger Service Act, if the proceeds of those obligations were used to pay the expenses of acquiring interests in property referred to in subsection (a)(2)(B) and (D).

(d) PROHIBITION ON SUBSIDIZING COMMUTER AND FREIGHT OPERATING LOSSES.—Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail or rail freight transportation.

(e) SUBSTITUTING AND DEFERRING CERTAIN IMPROVEMENTS.—(1) A project for which amounts are authorized under subsection (a)(1)(C) of this section is a part of the Northeast Corridor improvement program and is not a substitute for improvements specified in the document “Corridor Master Plan II, NECIP Restructured Program” of January, 1982. However, Amtrak may defer the project to carry out the improvement and rehabilitation for which amounts are authorized under subsection (a)(1)(B) of this section. The total cost of the project that Amtrak defers may not be substantially more than the amount Amtrak is required to expend or reserve under subsection (a)(1)(B).

(2) Section 24902 of this title is deemed not to be fulfilled until the projects under subsection (a)(1)(C) of this section are completed.

(f) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a)(1) and (2)(A) and (C)–(E) of this section remain available until expended.

(g) AUTHORIZATIONS INCREASED BY PRIOR YEAR DEFICIENCIES.—An amount greater than that authorized for a fiscal year may be appropriated to the extent that the amount appropriated for any prior fiscal year is less than the amount authorized for that year.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 937.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)        | Source (Statutes at Large)   |
|-----------------|---------------------------|--|
| 24909(a)(1) ..  | 45:854(a) (1st sentence). | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, §704(a) (1st sentence); added Aug. 13, 1981, Pub. L. 97-35, §1193(1), 95 Stat. 701. |

## HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>  | <i>Source (Statutes at Large)</i>   |
|------------------------|--|---|
|                        | 45:854(a) (2d sentence cl. (1) (less availability)).   | Feb. 5, 1976, Pub. L. 94-210, § 704(a) (2d sentence), 90 Stat. 122; Oct. 19, 1976, Pub. L. 94-555, § 217(a), (b), 90 Stat. 2627; Oct. 5, 1978, Pub. L. 95-421, § 9, 92 Stat. 928; May 30, 1980, Pub. L. 96-254, § 204(a), 94 Stat. 411; Jan. 14, 1983, Pub. L. 97-468, § 301(2), 96 Stat. 2548; June 22, 1988, Pub. L. 100-342, § 6, 102 Stat. 627. |
|                        | 45:855(b).   | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 705(b); added May 30, 1980, Pub. L. 96-254, § 206(a), 94 Stat. 413; Jan. 14, 1983, Pub. L. 97-468, § 301(5)(B), 96 Stat. 2550.   |
| 24909(a) (2)(A).       | 45:854(a) (2d sentence cl. (2) (less availability)).   |   |
| 24909(a) (2)(B)–(E).   | 45:854(a) (2d sentence cls. (3)(A)–(D) (1st sentence), (4)) (as 2d sentence cls. (3)(A)–(D) (1st sentence), (4) relate to other than availability).    |   |
| 24909(b) .....         | 45:855(b).<br>45:854(d).   | Feb. 5, 1976, Pub. L. 94-210, § 704(d), 90 Stat. 123.   |
| 24909(c) .....         | 45:855(b).   |   |
| 24909(d) .....         | 45:854(a) (2d sentence cl. (3)(D) (last sentence)).  |   |
| 24909(d) .....         | 45:854(b)(1) (related to 854).   | Feb. 5, 1976, Pub. L. 94-210, § 704(b)(1) (related to § 704), 90 Stat. 123; Jan. 14, 1983, Pub. L. 97-468, § 301(4)(A), 96 Stat. 2549.  |
| 24909(e) .....         | 45:854(b)(2).  | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 704(b)(2); added Jan. 14, 1983, Pub. L. 97-468, § 301(4)(B), 96 Stat. 2549.  |
| 24909(f) .....         | 45:855(b).<br>45:854(a) (2d sentence cls. (1)–(3)(D) (1st sentence), (4)) (as 2d sentence cls. (1)–(3)(D) (1st sentence), (4) relate to availability). |   |
| 24909(g) .....         | 45:854(a) (3d sentence).   | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 704(a) (3d sentence); added Aug. 13, 1981, Pub. L. 97-35, § 1193(2), 95 Stat. 702.   |
|                        | 45:854(a) (4th-last sentences).  | Feb. 5, 1976, Pub. L. 94-210, 90 Stat. 31, § 704(a) (4th-last sentences); added Jan. 14, 1983, Pub. L. 97-468, § 301(3), 96 Stat. 2549.   |

In subsections (a) and (f), the text of 45:854(a) (2d sentence cl. (3)(A)) is omitted as executed.

In subsection (a)(1), before clause (A), the text of 45:854(a) (1st sentence) is omitted as surplus because of section 24902(a) of the revised title. In clause (B)(i), the words “if the National Railroad Passenger Corporation receives notification on or before June 1, 1983, from . . . that such State has approved” and “and if such Corporation determines that such plan is feasible” are omitted as executed. The words “rehabilitation and other . . . (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service)” are omitted as surplus. In clause (C), before subclause (i), the words “with respect to the main line of the Northeast Corridor” are omitted as surplus. In subclauses (i), (ii), (iv)–(viii), (xv), and (xvii), the word “Washington” is omitted as surplus. In subclause (xx), the words “at locations” are omitted as surplus.

In subsection (a)(2)(C), the words “passenger radio mobile telephone service on high-speed rail passenger transportation” are substituted for “high-speed rail passenger rail telephone service” for consistency in this chapter.

In subsection (a)(2)(D), the word “rail” is added for consistency in the revised title.

In subsection (b), the words “After the conveyance of rail properties, pursuant to section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)) and section 851(b) of this title” are omitted as executed. The words “remain available to” and “the purpose of performing” are omitted as surplus.

In subsection (c), the words “that portion of . . . issued by the National Railroad Passenger Corporation and” are omitted as surplus.

In subsection (e)(1), the words “to be appropriated”, “undertaken or viewed as”, “entitled”, and “prepared for the United States Department of Transportation, Federal Railroad Administration, Northeast Corridor Improvement Project, in cooperation with the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), by Deleuw, Cather/Parsons, NECIP architect/engineer” are omitted as surplus. The words “for which amounts are authorized under” are substituted for “described in” for clarity. The words “for expenditure” are omitted as surplus.

In subsection (g), the text of 45:854(a) (3d, 5th, and last sentences) is omitted as executed. The words “An amount greater than that authorized for a fiscal year” are substituted for “Funds . . . in excess of limitations imposed under the preceding sentence with respect to a fiscal year, or for fiscal years after the fiscal year ending September 30, 1983” to eliminate unnecessary and obsolete words. The words “under this section” are omitted as surplus. The words “amount authorized” are substituted for “limitation under such sentence” for consistency.

## REFERENCES IN TEXT

Section 24902 of this title, referred to in subsecs. (a)(1), (2)(A), (E), was amended by Pub. L. 105-134, title IV, § 405(b)(1), Dec. 2, 1997, 111 Stat. 2586, and, as so amended, subsec. (a) of that section was repealed and subsecs. (b), (j), and (m) were redesignated (a), (g), and (j), respectively.

Act of February 28, 1975 (Public Law 94-6, 89 Stat. 11), referred to in subsec. (b), provided appropriations for interim operating assistance for Federal Railroad Administration of Department of Transportation in chapter II which is not classified to the Code.

Section 602 of the Rail Passenger Service Act, referred to in subsec. (c), was classified to section 602 of Title 45, Railroads, prior to repeal by Pub. L. 102-533, § 7(c), Oct. 27, 1992, 106 Stat. 3519.

## PART D—HIGH-SPEED RAIL

## PRIOR PROVISIONS

A prior part D, consisting of chapter 261, was redesignated part E of this subtitle by Pub. L. 103-440, title I, § 103(a)(1), Nov. 2, 1994, 108 Stat. 4616.

## CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

|        |  |
|--------|--|
| Sec.   |  |
| 26101. | Corridor development.                    |
| 26102. | High-speed rail technology improvements. |
| 26103. | Safety regulations.                      |
| 26104. | Authorization of appropriations.         |
| 26105. | Definitions.                             |

## PRIOR PROVISIONS

A prior chapter 261, consisting of sections 26101 and 26102, was renumbered chapter 281 of this title by Pub. L. 103-440, title I, § 103(a)(1), Nov. 2, 1994, 108 Stat. 4616.

## AMENDMENTS

2005—Pub. L. 109-59, title IX, § 9001(a)(2), Aug. 10, 2005, 119 Stat. 1919, substituted “development” for “planning” in item 26101.

**§ 26101. Corridor development**

(a) **CORRIDOR DEVELOPMENT ASSISTANCE.**—(1) The Secretary may provide under this section financial assistance to a public agency or group of public agencies for corridor development for up to 50 percent of the publicly financed costs associated with eligible activities.

(2) No less than 20 percent of the publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources may not include funds from any Federal program.

(b) **ELIGIBLE ACTIVITIES.**—(1) A corridor development activity is eligible for financial assistance under subsection (a) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements, or if it is an activity described in subparagraph (M). Eligible corridor development activities include—

- (A) environmental assessments;
- (B) feasibility studies emphasizing commercial technology improvements or applications;
- (C) economic analyses, including ridership, revenue, and operating expense forecasting;
- (D) assessing the impact on rail employment of developing high-speed rail corridors;
- (E) assessing community economic impacts;
- (F) coordination with State and metropolitan area transportation planning and corridor development with other States;
- (G) operational planning;
- (H) route selection analyses and purchase of rights-of-way for proposed high-speed rail service;
- (I) preliminary engineering and design;
- (J) identification of specific improvements to a corridor, including electrification, line straightening and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, coordination with other modes of transportation, parking and other means of passenger access, track, signal, station, and other capital work, and use of intermodal terminals;
- (K) preparation of financing plans and prospectuses;
- (L) creation of public/private partnerships; and
- (M) the acquisition of locomotives, rolling stock, track, and signal equipment.

(2) No financial assistance shall be provided under this section for corridor development with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

(c) **CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.**—Selection by the Secretary of recipients of financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

- (1) the relationship of the corridor to the Secretary's national high-speed ground transportation policy;

- (2) the extent to which the proposed development focuses on systems which will achieve sustained speeds of 125 mph or greater;

- (3) the integration of the corridor into metropolitan area and statewide transportation planning;

- (4) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

- (5) the anticipated effect of the corridor on the congestion of other modes of transportation;

- (6) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act (42 U.S.C. 7401 et seq.);

- (7) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

- (8) the estimated level of ridership;

- (9) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossings;

- (10) rail transportation employment impacts;

- (11) community economic impacts;

- (12) the extent to which the projected revenues of the proposed high-speed rail service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses;

- (13) whether a specific route has been selected, specific improvements identified, and capacity studies completed; and

- (14) whether the corridor has been designated as a high-speed rail corridor by the Secretary.

(Added Pub. L. 103-440, title I, § 103(a)(2), Nov. 2, 1994, 108 Stat. 4616; amended Pub. L. 109-59, title IX, § 9001(a)(1), Aug. 10, 2005, 119 Stat. 1918.)

**REFERENCES IN TEXT**

The Clean Air Act, referred to in subsec. (c)(6), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

**PRIOR PROVISIONS**

A prior section 26101 was renumbered section 28101 of this title.

**AMENDMENTS**

2005—Pub. L. 109-59, § 9001(a)(1)(A), substituted “development” for “planning” in section catchline.

Subsec. (a). Pub. L. 109-59, § 9001(a)(1)(B), substituted “Development” for “Planning” in subsec. heading.

Subsec. (a)(1). Pub. L. 109-59, § 9001(a)(1)(C), substituted “corridor development” for “corridor planning”.

Subsec. (b)(1). Pub. L. 109-59, § 9001(a)(1)(D)(i), inserted “, or if it is an activity described in subparagraph (M)” after “high-speed rail improvements” in introductory provisions.

Pub. L. 109-59, § 9001(a)(1)(C), substituted “corridor development” for “corridor planning” in two places in introductory provisions.

Subsec. (b)(1)(F). Pub. L. 109–59, §9001(a)(1)(C), substituted “corridor development” for “corridor planning”.

Subsec. (b)(1)(M). Pub. L. 109–59, §9001(a)(1)(D)(ii)–(iv), added subpar. (M).

Subsec. (b)(2). Pub. L. 109–59, §9001(a)(1)(C), substituted “corridor development” for “corridor planning”.

Subsec. (c)(2). Pub. L. 109–59, §9001(a)(1)(E), substituted “development” for “planning”.

#### CONGRESSIONAL FINDINGS; PURPOSE

Section 102 of title I of Pub. L. 103–440 provided that: “(a) FINDINGS.—The Congress finds that—

“(1) high-speed rail offers safe and efficient transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

“(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

“(3) Amtrak’s Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

“(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

“(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

“(6) the private sector should participate in funding the development of high-speed rail systems;

“(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

“(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

“(9) Federal assistance is required for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

“(b) PURPOSE.—The purpose of this title [see Short Title of 1994 Amendment note set out under section 20101 of this title] is to encourage farsighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity corridors.”

#### § 26102. High-speed rail technology improvements

(a) AUTHORITY.—The Secretary may undertake activities for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency of the Federal Government.

(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized by subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

(Added Pub. L. 103–440, title I, §103(a)(2), Nov. 2, 1994, 108 Stat. 4617.)

#### PRIOR PROVISIONS

A prior section 26102 was renumbered section 28102 of this title.

#### § 26103. Safety regulations

The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.

(Added Pub. L. 103–440, title I, §103(a)(2), Nov. 2, 1994, 108 Stat. 4618.)

#### § 26104. Authorization of appropriations

(a) FISCAL YEARS 2006 THROUGH 2013.—There are authorized to be appropriated to the Secretary—

(1) \$70,000,000 for carrying out section 26101; and

(2) \$30,000,000 for carrying out section 26102,

for each of the fiscal years 2006 through 2013.

(b) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

(Added Pub. L. 103–440, title I, §103(a)(2), Nov. 2, 1994, 108 Stat. 4618; amended Pub. L. 105–178, title VII, §7201(a), June 9, 1998, 112 Stat. 469; Pub. L. 109–59, title IX, §9001(b), Aug. 10, 2005, 119 Stat. 1919.)

#### AMENDMENTS

2005—Pub. L. 109–59 amended heading and text of section generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to authorization of appropriations for fiscal years 1995 through 2001 and availability of funds.

1998—Subsecs. (d) to (h). Pub. L. 105–178 added subsecs. (d) to (g) and redesignated former subsec. (d) as (h).

#### § 26105. Definitions

For purposes of this chapter—

(1) the term “financial assistance” includes grants, contracts,<sup>1</sup> cooperative agreements, and other transactions;

(2) the term “high-speed rail” means all forms of nonhighway ground transportation that run on rails or electromagnetic guideways providing transportation service which is—

(A) reasonably expected to reach sustained speeds of more than 125 miles per hour; and

(B) made available to members of the general public as passengers,

but does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation;

(3) the term “publicly financed costs” means the costs funded after April 29, 1993, by Federal, State, and local governments;

(4) the term “Secretary” means the Secretary of Transportation;

(5) the term “State” means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

(6) the term “United States private business” means a business entity organized under

<sup>1</sup> So in original.

the laws of the United States, or of a State, and conducting substantial business operations in the United States.

(Added Pub. L. 103-440, title I, § 103(a)(2), Nov. 2, 1994, 108 Stat. 4618; amended Pub. L. 105-178, title VII, § 7201(b), June 9, 1998, 112 Stat. 470; Pub. L. 109-59, title IX, § 9001(c), Aug. 10, 2005, 119 Stat. 1919.)

#### AMENDMENTS

2005—Par. (1). Pub. L. 109-59 substituted “, cooperative agreements, and other transactions” for “and cooperative agreements”.

1998—Par. (2). Pub. L. 105-178 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “the term ‘high-speed rail’ has the meaning given such term under section 511(n) of the Railroad Revitalization and Regulatory Reform Act of 1976;”.

### PART E—MISCELLANEOUS

#### AMENDMENTS

1994—Pub. L. 103-440, title I, § 103(a)(1), Nov. 2, 1994, 108 Stat. 4616, redesignated part D of this subtitle as part E.

### CHAPTER 281—LAW ENFORCEMENT

Sec.

- 28101. Rail police officers.
- 28102. Limit on certain accident or incident liability.
- 28103. Limitations on rail passenger transportation liability.

#### AMENDMENTS

1997—Pub. L. 105-134, title I, § 161(b), Dec. 2, 1997, 111 Stat. 2578, added item 28103.

1994—Pub. L. 103-440, title I, § 103(a)(1), (b)(2), Nov. 2, 1994, 108 Stat. 4616, 4619, renumbered chapter 261 of this title as chapter 281 and items 26101 and 26102 as 28101 and 28102, respectively.

#### UNITED STATES-CANADA ALASKA RAIL COMMISSION

Pub. L. 106-570, title III, Dec. 27, 2000, 114 Stat. 3043, provided that:

#### “SEC. 301. SHORT TITLE.

“This title may be cited as the ‘Rails to Resources Act of 2000’.

#### “SEC. 302. FINDINGS.

“Congress finds that—

“(1) rail transportation is an essential component of the North American intermodal transportation system;

“(2) the development of economically strong and socially stable communities in the western United States and Canada was encouraged significantly by government policies promoting the development of integrated transcontinental, interstate and interprovincial rail systems in the States, territories and provinces of the two countries;

“(3) United States and Canadian federal support for the completion of new elements of the transcontinental, interstate and interprovincial rail systems was halted before rail connections were established to the State of Alaska and the Yukon Territory;

“(4) rail transportation in otherwise isolated areas facilitates controlled access and may reduce overall impact to environmentally sensitive areas;

“(5) the extension of the continental rail system through northern British Columbia and the Yukon Territory to the current terminus of the Alaska Railroad would significantly benefit the United States and Canadian visitor industries by facilitating the comfortable movement of passengers over long dis-

tances while minimizing effects on the surrounding areas; and

“(6) ongoing research and development efforts in the rail industry continue to increase the efficiency of rail transportation, ensure safety, and decrease the impact of rail service on the environment.

#### “SEC. 303. AGREEMENT FOR A UNITED STATES-CANADA BILATERAL COMMISSION.

“The President is authorized and urged to enter into an agreement with the Government of Canada to establish an independent joint commission to study the feasibility and advisability of linking the rail system in Alaska to the nearest appropriate point on the North American continental rail system.

#### “SEC. 304. COMPOSITION OF COMMISSION.

“(a) MEMBERSHIP.—

“(1) TOTAL MEMBERSHIP.—The Agreement should provide for the Commission to be composed of 24 members, of which 12 members are appointed by the President and 12 members are appointed by the Government of Canada.

“(2) GENERAL QUALIFICATIONS.—The Agreement should provide for the membership of the Commission, to the maximum extent practicable, to be representative of—

“(A) the interests of the local communities (including the governments of the communities), aboriginal peoples, and businesses that would be affected by the connection of the rail system in Alaska to the North American continental rail system; and

“(B) a broad range of expertise in areas of knowledge that are relevant to the significant issues to be considered by the Commission, including economics, engineering, management of resources, social sciences, fish and game management, environmental sciences, and transportation.

“(b) UNITED STATES MEMBERSHIP.—If the United States and Canada enter into an agreement providing for the establishment of the Commission, the President shall appoint the United States members of the Commission as follows:

“(1) Two members from among persons who are qualified to represent the interests of communities and local governments of Alaska.

“(2) One member representing the State of Alaska, to be nominated by the Governor of Alaska.

“(3) One member from among persons who are qualified to represent the interests of Native Alaskans residing in the area of Alaska that would be affected by the extension of rail service.

“(4) Three members from among persons involved in commercial activities in Alaska who are qualified to represent commercial interests in Alaska, of which one shall be a representative of the Alaska Railroad Corporation.

“(5) One member representing United States Class I rail carriers and one member representing United States rail labor.

“(6) Three members with relevant expertise, at least one of whom shall be an engineer with expertise in subarctic transportation and at least one of whom shall have expertise on the environmental impact of such transportation.

“(c) CANADIAN MEMBERSHIP.—The Agreement should provide for the Canadian membership of the Commission to be representative of broad categories of interests of Canada as the Government of Canada determines appropriate, consistent with subsection (a)(2).

#### “SEC. 305. GOVERNANCE AND STAFFING OF COMMISSION.

“(a) CHAIRMAN.—The Agreement should provide for the Chairman of the Commission to be elected from among the members of the Commission by a majority vote of the members.

“(b) COMPENSATION AND EXPENSES OF UNITED STATES MEMBERS.—

“(1) COMPENSATION.—Each member of the Commission appointed by the President who is not an officer

or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. Each such member who is an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

“(2) TRAVEL EXPENSES.—The members of the Commission appointed by the President shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(c) STAFF.—

“(1) IN GENERAL.—The Agreement should provide for the appointment of a staff and an executive director to be the head of the staff.

“(2) COMPENSATION.—Funds made available for the Commission by the United States may be used to pay the compensation of the executive director and other personnel at rates fixed by the Commission that are not in excess of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

“(d) OFFICE.—The Agreement should provide for the office of the Commission to be located in a mutually agreed location within the impacted areas of Alaska, the Yukon Territory, and northern British Columbia.

“(e) MEETINGS.—The Agreement should provide for the Commission to meet at least biannually to review progress and to provide guidance to staff and others, and to hold, in locations within the affected areas of Alaska, the Yukon Territory and northern British Columbia, such additional informational or public meetings as the Commission deems necessary to the conduct of its business.

“(f) PROCUREMENT OF SERVICES.—The Agreement should authorize and encourage the Commission to procure by contract, to the maximum extent practicable, the services (including any temporary and intermittent services) that the Commission determines necessary for carrying out the duties of the Commission. In the case of any contract for the services of an individual, funds made available for the Commission by the United States may not be used to pay for the services of the individual at a rate that exceeds the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

“SEC. 306. DUTIES.

“(a) STUDY.—

“(1) IN GENERAL.—The Agreement should provide for the Commission to study and assess, on the basis of all available relevant information, the feasibility and advisability of linking the rail system in Alaska to the North American continental rail system through the continuation of the rail system in Alaska from its northeastern terminus to a connection with the continental rail system in Canada.

“(2) SPECIFIC ISSUES.—The Agreement should provide for the study and assessment to include the consideration of the following issues:

“(A) Railroad engineering.

“(B) Land ownership.

“(C) Geology.

“(D) Proximity to mineral, timber, tourist, and other resources.

“(E) Market outlook.

“(F) Environmental considerations.

“(G) Social effects, including changes in the use or availability of natural resources.

“(H) Potential financing mechanisms.

“(3) ROUTE.—The Agreement should provide for the Commission, upon finding that it is feasible and ad-

visable to link the rail system in Alaska as described in paragraph (1), to determine one or more recommended routes for the rail segment that establishes the linkage, taking into consideration cost, distance, access to potential freight markets, environmental matters, existing corridors that are already used for ground transportation, the route surveyed by the Army Corps of Engineers during World War II and such other factors as the Commission determines relevant.

“(4) COMBINED CORRIDOR EVALUATION.—The Agreement should also provide for the Commission to consider whether it would be feasible and advisable to combine the power transmission infrastructure and petroleum product pipelines of other utilities into one corridor with a rail extension of the rail system of Alaska.

“(b) REPORT.—The Agreement should require the Commission to submit to Congress and the Secretary of Transportation and to the Minister of Transport of the Government of Canada, not later than 3 years after the Commission commencement date, a report on the results of the study, including the Commission's findings regarding the feasibility and advisability of linking the rail system in Alaska as described in subsection (a)(1) and the Commission's recommendations regarding the preferred route and any alternative routes for the rail segment establishing the linkage.

“SEC. 307. COMMENCEMENT AND TERMINATION OF COMMISSION.

“(a) COMMENCEMENT.—The Agreement should provide for the Commission to begin to function on the date on which all members are appointed to the Commission as provided for in the Agreement.

“(b) TERMINATION.—The Commission should be terminated 90 days after the date on which the Commission submits its report under section 306.

“SEC. 308. FUNDING.

“(a) RAILS TO RESOURCES FUND.—The Agreement should provide for the following:

“(1) ESTABLISHMENT.—The establishment of an interest-bearing account to be known as the ‘Rails to Resources Fund’.

“(2) CONTRIBUTIONS.—The contribution by the United States and the Government of Canada to the Fund of amounts that are sufficient for the Commission to carry out its duties.

“(3) AVAILABILITY.—The availability of amounts in the Fund to pay the costs of Commission activities.

“(4) DISSOLUTION.—Dissolution of the Fund upon the termination of the Commission and distribution of the amounts remaining in the Fund between the United States and the Government of Canada.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to any fund established for use by the Commission as described in subsection (a)(1) \$6,000,000, to remain available until expended.

“SEC. 309. DEFINITIONS.

“In this title:

“(1) AGREEMENT.—The term ‘Agreement’ means an agreement described in section 303.

“(2) COMMISSION.—The term ‘Commission’ means a commission established pursuant to any Agreement.”

## § 28101. Rail police officers

Under regulations prescribed by the Secretary of Transportation, a rail police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of a State may enforce the laws of any jurisdiction in which the rail carrier owns property, to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction, to protect—

(1) employees, passengers, or patrons of the rail carrier;

(2) property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and material moving by rail that are vital to the national defense.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 939, §26101; renumbered §28101, Pub. L. 103-440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>                      |
|------------------------|---------------------------|--|
| 26101 .....            | 45:446.                   | Nov. 29, 1990, Pub. L. 101-647, §1704, 104 Stat. 4846. |

The words “to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction” are placed before clause (1) rather than at the end of clause (4), as in the source provision, to reflect the probable intent of Congress.

#### AMENDMENTS

1994—Pub. L. 103-440 renumbered section 26101 of this title as this section.

### § 28102. Limit on certain accident or incident liability

(a) GENERAL.—When a publicly financed commuter transportation authority established under Virginia law makes a contract to indemnify Amtrak for liability for operations conducted by or for the authority or to indemnify a rail carrier over whose tracks those operations are conducted, liability against Amtrak, the authority, or the carrier for all claims (including punitive damages) arising from an accident or incident in the District of Columbia related to those operations may not be more than the limits of the liability coverage the authority maintains to indemnify Amtrak or the carrier.

(b) MINIMUM REQUIRED LIABILITY COVERAGE.—A publicly financed commuter transportation authority referred to in subsection (a) of this section must maintain a total minimum liability coverage of at least \$200,000,000.

(c) EFFECTIVENESS.—This section is effective only after Amtrak or a rail carrier seeking an indemnification contract under this section makes an operating agreement with a publicly financed commuter transportation authority established under Virginia law to provide access to its property for revenue transportation related to the operations of the authority.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 940, §26102; renumbered §28102, Pub. L. 103-440, title I, §103(a)(1), Nov. 2, 1994, 108 Stat. 4616.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>  | <i>Source (Statutes at Large)</i>   |
|------------------------|----------------------------|---|
| 26102(a) .....         | 45:649(a) (1st sentence).  | Oct. 30, 1970, Pub. L. 91-518, 84 Stat. 1327, §810; added July 6, 1990, Pub. L. 101-322, §3, 104 Stat. 295. |
| 26102(b) .....         | 45:649(a) (last sentence). |   |
| 26102(c) .....         | 45:649(b).                 |   |

In subsection (a), the words “Notwithstanding any other provision of law”, “whether for compensatory or”, and “occurring” are omitted as surplus.

In subsection (c), the words “an indemnification contract” are substituted for “coverage” for clarity.

#### AMENDMENTS

1994—Pub. L. 103-440 renumbered section 26102 of this title as this section.

### § 28103. Limitations on rail passenger transportation liability

(a) LIMITATIONS.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State, punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others. If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, this paragraph shall not apply.

(2) The aggregate allowable awards to all rail passengers, against all defendants, for all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed \$200,000,000.

(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims.

(c) MANDATORY COVERAGE.—Amtrak shall maintain a total minimum liability coverage for claims through insurance and self-insurance of at least \$200,000,000 per accident or incident.

(d) EFFECT ON OTHER LAWS.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the “Federal Employers’ Liability Act”) or under any workers compensation Act.

(e) DEFINITION.—For purposes of this section—

(1) the term “claim” means a claim made—

(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State; or

(B) against an officer, employee, affiliate engaged in railroad operations, or agent, of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

(2) the term “punitive damages” means damages awarded against any person or entity to

punish or deter such person or entity, or others, from engaging in similar behavior in the future; and

(3) the term “rail carrier” includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.

(Added Pub. L. 105–134, title I, §161(a), Dec. 2, 1997, 111 Stat. 2577.)

#### REFERENCES IN TEXT

The Federal Employers’ Liability Act, referred to in subsec. (d), is act Apr. 22, 1908, ch. 149, 35 Stat. 65, as amended, which is classified generally to chapter 2 (§51 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Short Title note set out under section 51 of Title 45 and Tables.

### CHAPTER 283—STANDARD WORK DAY

|        |            |
|--------|------------|
| Sec.   |            |
| 28301. | General.   |
| 28302. | Penalties. |

#### § 28301. General

(a) EIGHT HOUR DAY.—In contracts for labor and service, 8 hours shall be a day’s work and the standard day’s work for determining the compensation for services of an employee employed by a common carrier by railroad subject to subtitle IV of this title and actually engaged in any capacity in operating trains used for transporting passengers or property on railroads from—

(1) a State of the United States or the District of Columbia to any other State or the District of Columbia;

(2) one place in a territory or possession of the United States to another place in the same territory or possession;

(3) a place in the United States to an adjacent foreign country; or

(4) a place in the United States through a foreign country to any other place in the United States.

(b) APPLICATION.—Subsection (a) of this section—

(1) does not apply to—

(A) an independently owned and operated railroad not exceeding one hundred miles in length;

(B) an electric street railroad; and

(C) an electric interurban railroad; but

(2) does apply to an independently owned and operated railroad less than one hundred miles in length—

(A) whose principal business is leasing or providing terminal or transfer facilities to other railroads; or

(B) engaged in transfers of freight between railroads or between railroads and industrial plants.

(Added Pub. L. 104–287, §5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)      | Source (Statutes at Large)   |
|-----------------|-------------------------|--|
| 28301 .....     | 45:65.<br>(uncodified). | Sept. 3, 5, 1916, ch. 436, §1, 39 Stat. 721.<br>Sept. 3, 5, 1916, ch. 436, §§2, 3, 39 Stat. 721. |

In subsection (a), the word “determining” is substituted for “reckoning” for clarity. The words “who are not or may hereafter be employed” are omitted as surplus. In clause (1), the words “or territory” are omitted because the existing territories of the United States are now connected to the United States by rail. In clause (2), the words “or possession of the United States” are added for consistency in the revised title and with other titles of the United States Code.

The text of sections 2 and 3 of the Act of September 3, 5, 1916 (ch. 436, 39 Stat. 721), is omitted to eliminate executed provisions.

#### § 28302. Penalties

A person violating section 28301 of this title shall be fined under title 18, imprisoned not more than one year, or both.

(Added Pub. L. 104–287, §5(56)(A), Oct. 11, 1996, 110 Stat. 3394.)

#### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)                   |
|-----------------|--------------------|--|
| 28302 .....     | 45:66.             | Sept. 3, 5, 1916, ch. 436, §4, 39 Stat. 722. |

The words “shall be guilty of a misdemeanor” are omitted, and the words “shall be fined under title 18” are substituted for “shall be fined not less than \$100 and not more than \$1,000”, for consistency with title 18. The words “upon conviction” are omitted as surplus.

## SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

### PART A—GENERAL

| Chapter |   | Sec.  |
|---------|---|-------|
| 301.    | Motor Vehicle Safety .....                            | 30101 |
| 303.    | National Driver Register .....                        | 30301 |
| 305.    | National Motor Vehicle Title Information System ..... | 30501 |

### PART B—COMMERCIAL

|      |   |                    |
|------|---|--------------------|
| 311. | Commercial Motor Vehicle Safety ..  | 31101 <sup>1</sup> |
| 313. | Commercial Motor Vehicle Operators .....  | 31301              |
| 315. | Motor Carrier Safety .....  | 31501              |
| 317. | Participation in International Registration Plan and International Fuel Tax Agreement ..... | 31701              |

### PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

|      |                               |       |
|------|-------------------------------|-------|
| 321. | General .....                 | 32101 |
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| 325. | Bumper Standards .....        | 32501 |
| 327. | Odometers .....               | 32701 |
| 329. | Automobile Fuel Economy ..... | 32901 |
| 331. | Theft Prevention .....        | 33101 |

#### AMENDMENTS

1997—Pub. L. 105–102, §2(17), Nov. 20, 1997, 111 Stat. 2205, substituted “National Motor Vehicle Title Information System” for “National Automobile Title Information System” in item for chapter 305.

### PART A—GENERAL

## CHAPTER 301—MOTOR VEHICLE SAFETY

### SUBCHAPTER I—GENERAL

|        |                     |
|--------|---------------------|
| Sec.   |                     |
| 30101. | Purpose and policy. |

<sup>1</sup> So in original. Probably should be “31100”.